Barclays Official

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Title 22. Social Security

Complete Title

(continued)

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Division 7. Health Planning and Facility Construction

(Originally Printed 10-9-76)

Chapter 1. Health Planning and Resources Development

Article 1. Definitions

§ 90001. Addition.

NOTE: Authority cited: Sections 208, 437, 437.2, 437.5, 437.6, 437.7, 437.8, 437.9, 437.10, 437.11, 437.12, 437.13, 438, 438.1, 438.2, 438.3, 438.4, 438.5, 438.6, 438.8, 438.9, 438.10, 438.11, 438.12, 438.13, 1250.1 and 1268, Health and Safety Code, and Sections 11500 et seq., Government Code. Reference: Chapter 854, Statutes of 1976.

HISTORY

1. New Division 7, Chapter 1 (Sections 90001–90605, not consecutive) filed 10–5–76 as an emergency; effective upon filing (Register 76, No. 41).
2. Repealer and new Division 7, Chapter 1 (Sections 90001–90905, not consecutive) filed 11–9–76 as an emergency; effective upon filing (Register 76, No. 46).

Certificate of Compliance filed 3–8–77 (Register 77, No. 11).

4. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90002. Applicant.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90003. Application.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90005. Adjacent.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90007. Area Agency.

"Area agency" means an area health planning agency designated by the Council.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Sections 437.6, 437.7, 437.8, 437.15, 438.2, 438.3, 438.4, 438.5, 438.8, 439.5 and 439.6, Health and Safety Code.

HISTORY

1. New NOTE filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90009. Area Plan.

"Area Plan" means an area agency's plan found to be in conformance by the Council.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Section 437.7, Health and Safety Code.

HISTORY

1. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90009.5. Capital Expenditure Threshold.

NOTE: Authority cited: Sections 208, 437.10 and 438.6, Health and Safety Code. Reference: Sections 437.10 and 438.6, Health and Safety Code.

HISTORY

1. New section filed 4–10–78; effective thirtieth day thereafter (Register 78, No. 15).
2. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90010. Cardiovascular Surgery Service.

HISTORY

1. New section filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
2. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90011. Certified Cost Estimate.

"Certified cost estimate" means an estimate of the total cost of a project certified by a qualified individual as specified in the applicable Office form.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Sections 437.10 and 437.11, Health and Safety Code.

HISTORY

1. Amendment of subsection (a)(3) filed 12–8–76 as an emergency; effective upon filing (Register 76, No. 50).
2. Certificate of Compliance filed 3–8–77 (Register 77, No. 11).
3. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90013. Certificate of Exemption.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90015. Certificate of Need.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90017. Community Need.

"Community Need" means the facility health resources required to serve a given service area as set forth in the Statewide Health Facilities and Services Plan.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Sections 437.7 and 437.8, Health and Safety Code.

HISTORY

1. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90019. Commencement of Construction.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90021. Comparable Arrangement.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Section 437.10, Health and Safety Code.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90023. Consumer.

"Consumer" means a person who is not a provider as defined in Section 90051.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Sections 437, 437.7, 438.10 and 439.7, Health and Safety Code.

HISTORY

1. New NOTE filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90025. Council.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90027. Days.

"Days" means calendar days unless otherwise specified.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Sections 438.2 and 438.5, Health and Safety Code.

HISTORY

1. New NOTE filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90029. Department.

NOTE: Authority cited: Sections 208, 437, 437.2, 437.5–437.13, 438, 438.1–438.6, 438.8–438.13, 1250.1, 1268 and 1275, Health and Safety Code;

Section 11500 et seq., Government Code. Reference: Chapter 1252, Statutes of 1977.

HISTORY

1. Amendment filed 6–30–78 as an emergency; designated effective at 11:59 p.m. on 6–30–78 (Register 78, No. 26).
2. Certificate of Compliance transmitted to OAH 10–27–78; filed 10–31–78 (Register 78, No. 44).
3. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90031. Director.

NOTE: Authority cited: Sections 208, 437, 437.2, 437.5–437.13, 438, 438.1–438.6, 438.8–438.13, 1250.1, 1268 and 1275, Health and Safety Code; Sections 11500 et seq., Government Code. Reference: Chapter 1252, Statutes of 1977.

HISTORY

1. Amendment filed 6–30–78 as an emergency; designated effective at 11:59 p.m. on 6–30–78 (Register 78, No. 26).
2. Certificate of Compliance transmitted to OAH 10–27–78; filed 10–31–78 (Register 78, No. 44).
3. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90032. Division.

"Division" means that division within the Office of Statewide Health Planning and Development which has responsibility for reviewing applications for certificates of need.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Section 438.5, Health and Safety Code.

HISTORY

1. New section filed 5–17–83; designated effective 4–22–83 pursuant to Government Code Section 11349.3 (Register 83, No. 21).
2. Amendment of NOTE filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).
3. Amendment filed 2–28–85; effective thirtieth day thereafter (Register 85, No. 9).

§ 90033. Effective Date.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90035. Facility.

"Facility" means either a health facility or a specialty clinic.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Sections 437.6, 437.8, 437.10, 437.12, 437.13 and 438, Health and Safety Code.

HISTORY

1. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90037. Facility Health Resources.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90038. Functionally Related.

"Functionally related" means operationally interdependent or normally used together in the performance of a single procedure.

NOTE: Authority cited: Sections 437.6 and 446.2, Health and Safety Code. Reference: Sections 437.10 and 437.13, Health and Safety Code.

HISTORY

1. New section filed 3–1–78; effective thirtieth day thereafter (Register 78, No. 9).
2. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90039. Health Facility.

"Health facility" means a facility described in Health and Safety Code Section 1250, or a psychiatric health facility, as described in Health and Safety Code Section 1275.1, or a chemical dependency recovery hospital, as described in Health and Safety Code Section 1250.3.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Sections 437.6, 437.8, 437.10, 437.12 and 437.13, Health and Safety Code.

HISTORY

1. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90041. Health Planning Area.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90043. Health Systems Agency.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90044. Immediately Adjacent.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Section 437.13, Health and Safety Code.

HISTORY

1. New section filed 3–1–78; effective thirtieth day thereafter (Register 78, No. 9).
2. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).
3. Repealer filed 7–11–84; effective thirtieth day thereafter (Register 84, No. 28).

§ 90045. Local Area.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90046. Local Agency.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90047. Modernization.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90049. Person.

"Person" includes a natural person, firm, business, trust, partnership, association, corporation, organization, or public entity.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Sections 19 and 438.9, Health and Safety Code.

HISTORY

1. New NOTE filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90051. Provider.

(a) "Provider" includes but shall not be limited to the following types of individuals who:

(1) Are engaged in the provision of health care to individuals, in the administration of health facilities, or in the administration of related health organizations. Such individuals shall, when required by law, be licensed in California or certified by the appropriate national professional association or have received professional education or training in preparation for licensure or certification.

(2) Hold a fiduciary position with or has fiduciary interest in one of the following:

(A) Health facilities or related health organizations engaged in the provision of health care.

(B) Educational institutions engaged in health related research and education.

(C) Manufacturer or producer, including related associations and organizations, of drugs or health related articles.

(3) Receive directly or through a spouse more than 10 percent of their gross annual income from any one or combination of the following:

(A) Fees or other compensations received from an educational institution for performing research or instruction related to the provision of health care.

(B) Health facilities, related health organizations engaged in the provisions of health care and education institutions engaged in health related research and education.

(C) Manufacturers or producers, including related associations and organizations, of drugs or health related articles.

(4) Are engaged in issuing any health insurance policy or contract for individuals, group medical service benefits, health facilities or related health organizations.

(5) Are members of the immediate family of an individual defined as a provider.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Sections 437, 437.7 and 439.7, Health and Safety Code.

HISTORY

1. New NOTE filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90052. Replacement.

NOTE: Authority cited: Sections 437.6 and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 437.10 and 437.13, Health and Safety Code.

HISTORY

1. New section filed 5–17–83; designated effective 4–22–83 pursuant to Government Code Section 11349.3 (Register 83, No. 21).
2. Repealer filed 7–11–84; effective thirtieth day thereafter (Register 84, No. 28).

§ 90053. Service Area.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90057. Services.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90058. Specialty Clinic.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Sections 437.6 and 437.10, Health and Safety Code.

HISTORY

1. New section filed 5–17–83; designated effective 4–22–83 pursuant to Government Code Section 11349.3 (Register 83, No. 21).
2. Amendment of NOTE filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).
3. Repealer filed 7–11–84; effective thirtieth day thereafter (Register 84, No. 28).

§ 90059. Statewide Health Facilities and Services Plan.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90060. Undertake.

(a) "Undertake" means any of the following:

(1) Remodeling, installing, operating, continuing, acquiring, any combination of the aforementioned, or otherwise proceeding with a project or any part of a project.

(2) The obligation of an expenditure, an expenditure, or commitment of funds for a project which shall include but not be limited to:

(A) Construction of the project.

(B) Equipment orders, purchases, leases or acquisition through other comparable arrangements or donation.

(C) Provision of services through contract, lease or comparable arrangement.

(D) Development of preliminary plans and outline specifications anticipated to cost more than the capital expenditure threshold.

(E) Obtaining financing for a specified project where the financing is not contingent upon certificate of need or certificate of exemption approval.

(F) Executing contracts for the project which are not contingent upon certificate of need or certificate of exemption approval.

(b) The expenditure or commitment of funds to develop applications, studies, reports, schematics, long range planning or preliminary plans and outline specifications anticipated to cost not more than the capital expenditure threshold shall not be considered to be the undertaking of a project.

NOTE: Authority cited: Section 437.6, Health and Safety Code; Reference: Section 438.6, Health and Safety Code.

HISTORY

1. New section filed 12–8–76 as an emergency; effective upon filing (Register 76, No. 50).
2. Certificate of Compliance filed 3–8–77 (Register 77, No. 11).
3. Amendment of subsection (a)(2) filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
4. Amendment of subsections (a)(2)(D) and (b) filed 4–10–78; effective thirtieth day thereafter (Register 78, No. 15).
5. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90061. Voluntary Area Health Planning Agency.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code 11346.2(d) (Register 83, No. 42).

§ 90063. Voluntary Local Health Planning Agency.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

Article 2. Advisory Health Council

§ 90101. Council Functions.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90103. Designation of Health Planning Area.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90105. Designation of Area Agency.

The Council shall evaluate and designate at least annually, but no later than June 30, one area agency for each health planning area of the State.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Section 437.7, Health and Safety Code.

HISTORY

1. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90107. Criteria for Designation of Area Agencies.

(a) The Council, in designating area agencies, shall consider but not be limited to the following criteria. Area agencies shall:

(1) Have Office–approved written policies relating to the performance of functions under this chapter which shall include but not be limited to provisions for:

(A) A board of directors, or governing body including the duties, number, and qualifications of members.

(B) Membership composition of the board of directors or governing body which sets forth that:

1. Both the consumer membership and the provider membership shall be broadly representative of the community and to the maximum extent possible shall be representative of social, economic, linguistic, and racial populations in the proportion in which they exist in the population of the area.

2. The membership should be broadly representative of the provider community and the major purchasers of health care in the area.

3. Members shall be residents of the area and be broadly representative of geographic subdivisions.

(C) Replacement of members, including term of office, replacement due to expiration of term, vacancies, removals, absenteeism, resignation, and death.

(D) Standing committees and ad hoc or task force groups.

(E) Conflict of interest and incompatible activities, including:

1. A statement substantially similar to the Office's Incompatible Activities Statement.

2. A mechanism for financial disclosure by designated officers, employees, and consultants substantially similar to that found in the Office's Conflict of Interest Code.

3. A disqualification mechanism substantially similar to that found in the Office's Conflict of Interest Code.

(F) Training of volunteers serving on review and planning committees.

(G) Responsibilities of the board of directors or governing body, including provisions that the governing body shall:

1. Have adequate resources to augment the funds allocated by the Office to perform the functions required by this chapter. Such resources shall not be from any nongovernmental source which has a financial, fiduciary, or other interest in the development, expansion, operation, maintenance, or support of health resources unless the source is an entity described in Section 509(a) of the Internal Revenue Code of 1954 and the entity is not directly engaged in the provision of health care in the agency area.

2. Have separate budgets for planning and for project review.

3. Demonstrate a capability for fulfilling satisfactorily the functions set forth in this chapter.

4. Assure to the greatest extent possible community support.

5. Have an affirmative action plan and a policy of nondiscrimination in performing the activities of the agency in accordance with the provisions of this chapter.

(2) Be able and willing to contract with the Office.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Section 437.7, Health and Safety Code.

HISTORY

1. Amendment of subsection (a)(1)(B) and new subsection (a)(2) filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
2. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90109. Criteria for Evaluation of Area Agencies.

(a) The Council shall make at least an annual evaluation of area agencies for the purpose of designating such area agencies. The evaluation shall determine if the area agency:

(1) Performs satisfactorily all functions required by this chapter.

(2) Carries out activities in accordance with Office policies regarding health care cost containment, and unnecessary duplication of facilities, services, and equipment.

(3) Follows the approved affirmative action employment plan.

(4) Demonstrates an effective and efficient expenditure for planning and project review.

(5) Meets coordinated work schedules established by the Office in developing health facilities and services plans.

(6) Demonstrates and shows evidence of cooperation with:

(A) Governmental entities, such as county health agencies.

(B) Nonprofit health planning entities and community organizations.

(7) Follows written policies as prescribed by Section 90107.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Section 437.7, Health and Safety Code.

HISTORY

1. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90110. Nondiscrimination and Affirmative Action.

(a) Area agencies shall take affirmative action to ensure that employees and applicants for employment are not discriminated against on the basis of their race, color, religion, creed, national origin, sex, age, or physical or mental handicap, or any other factors which may unlawfully place an individual or group at a disadvantage while employed or while seeking employment. Such affirmative action shall include, but not be limited to, the following:

(1) Employment.

(2) Promotion.

(3) Demotion or transfer.

(4) Recruitment or recruitment advertising.

(5) Layoff or termination.

(6) Rates of pay or other forms of compensation.

(7) Selection for training.

(b) Area agencies shall follow standardized hiring procedures as defined below by the Office. Such procedures shall include but not be limited to:

(1) Length of time for filing notices of vacancies.

(2) Length of time for advertising positions.

(3) Number and types of advertising to be done.

(4) Procedures for providing fair consideration to all applicants.

(c) Area agencies shall initially submit an affirmative action plan to the Office. Thereafter, area agencies shall annually submit modifications, if any, to the Office of Statewide Health Planning and Development. The affirmative action plan shall include, but not be limited to, the following:

(1) A demographic statistical summary of the ethnic groups in the area served by the area agency.

(2) A requirement that existing area agency offices, meeting places, and related premises, and existing area agency facilities to be remodeled, shall be accessible to and useable by the handicapped, including individuals in wheelchairs.

(3) An accessibility review–report prepared by the Mobility Barriers Section of the Department of Rehabilitation or by an appropriate local organization certified by this section. An acceptable defense for failure to meet the requirement of this paragraph is the Department of Rehabilitation's failure to compile such a report.

(4) Procedures to ensure that reasonable job accommodations are made for disabled employees and applicants.

(5) Provision for the accessibility to offices, meeting places, and related premises and transportation.

(6) Procedures to ensure that there are no communication barriers that would exclude the disabled. For the purposes of this section, communication barriers shall include the absence of such things as Braille markings on elevators and amplification equipment for telephones.

(7) Evidence that meetings are public and are accessible to the public.

(8) Evidence that advisory committees, governing bodies or boards of directors are composed of persons representative of the service area including ethnic minorities, women, aged, and the handicapped.

(9) Evidence that the area agency posts in a conspicuous place available to employees notices of the policy of nondiscrimination.

(10) Name of person within the area agency who will be responsible for the implementation of the affirmative action plan. The responsible person shall:

(A) Assist the governing body or board of directors in developing a policy statement.

(B) Assist in identifying problem areas.

(C) Assist line management in implementing the plan.

(D) Design and implement a reporting system that will measure the effectiveness of the affirmative action plan.

(11) A work force analysis which identifies for each job title or classification the total number of male and female incumbents in each of the following groups: Blacks, Spanish–Speaking/Spanish Surname, American Indians, Asian and Pacific people (specify), Filipinos, the handicapped, and others. An analysis shall include an explanation if minorities, women, or handicapped persons are currently being under–utilized in any one or more job classifications.

(12) Employment goals which are attainable and which are designed to achieve timely results with respect to the employment deficiencies identified in the workplace analysis. Such goals and timetable with supporting data and the analysis thereof shall also be a part of the area agency's written affirmative action plan and shall be available to the public at the area agency office.

(d) Area agency affirmative action plans shall establish a mechanism for the prompt investigation and resolution of all complaints of discrimination in employment practices. Initial attempts at resolution should take place at the area agency. The area agency shall make this complaint pro–

cess available to all employees or applicants for employment. The complainant shall have the right of appeal from the local decision to the Civil Rights Office of the Office. The area agencies shall, subject to the approval of the Office, establish procedures under which complainants are informed of their rights to file a complaint alleging discrimination in either employment or service in violation of their civil rights with the Office. This notice shall be posted in the languages of significant numbers (5% or more) of the population residing in the area. Complaints nor resolved at the area agency level alleging discrimination in employment by the area agency because of race, color, national origin, creed, sex, age, or physical or mental handicap, will be resolved by the Office's Affirmative Action Complaint Process.

(e) If the area agency has not developed an acceptable affirmative action plan, the Civil Rights Officer shall notify the Director. The Director will declare the area agency's affirmative action plan non-responsive and notify the Council. If the area agency fails to show good cause for its failure or fails to remedy that failure by developing and implementing an acceptable action plan, the Office shall take appropriate action.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Section 437.7, Health and Safety Code.

HISTORY

1. New section filed 12-8-76 as an emergency; effective upon filing (Register 76, No. 50).
2. Certificate of Compliance filed 3-8-77 (Register 77, No. 11).
3. Amendment of subsection (c) filed 1-11-82; effective thirtieth day thereafter (Register 82, No. 3).
4. Amendment filed 10-14-83; designated effective 10-17-83 pursuant to Government Section Code 11346.2(d) (Register 83, No. 42).

§ 90111. Approval of Local Health Planning Areas.

HISTORY

1. Repealer filed 10-14-83; designated effective 10-17-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

Article 3. Area Health Planning Agencies

§ 90201. Area Agency Functions.

HISTORY

1. Repealer of Article 3 (Sections 90201-90205, not consecutive) filed 10-14-83; designated effective 10-17-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42). For prior history, see Register 77, No. 37.

Article 4. Office Functions

§ 90301. Functions of the Department.

HISTORY

1. Amendment filed 9-8-77; effective thirtieth day thereafter (Register 77, No. 37).
2. Repealer filed 10-14-83; designated effective 10-17-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90303. Responsibilities Relating to Statewide Policies.

HISTORY

1. Amendment filed 12-8-76 as an emergency; effective upon filing (Register 76, No. 50).
2. Certificate of Compliance filed 3-8-77 (Register 77, No. 11).
3. Amendment filed 9-8-77; effective thirtieth day thereafter (Register 77, No. 37).
4. Repealer filed 10-14-83; designated effective 10-17-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90304. Plan Development Guidelines.

(a) The 1980-81 Plan Development Guidelines as adopted by the Office of Statewide Health Planning and Development in accordance with requirements of this division are incorporated in this article by this reference.

(b) Such Guidelines shall be reviewed, and revised as necessary, by the Office, on an annual basis in accordance with the provisions of the Administrative Procedures Act.

(c) Copies of the adopted guidelines may be reviewed in the Office of Statewide Health Planning and Development, 714 "P" Street, Room 1050, Sacramento, California 95814. It having been found that the printing of the regulation constituting the 1980-81 Plan Development Guidelines would be impractical and that the regulation would be of limited and particular application, pursuant to Government Code, Section 11409(a), the regulation is not published in full in the California Administrative Code.

NOTE: Authority cited: Sections 208, 437.6, and 437.8, Health and Safety Code, and Section 21000 et seq., Public Resources Code. Reference: Section 437.8, Health and Safety Code, Section 21102, Public Resources Code; and Chapter 854, Statutes of 1976 as amended by Chapter 429, Statutes of 1978 and Chapter 1186, Statutes of 1979.

HISTORY

1. New section filed 12-8-76 as an emergency; effective upon filing (Register 76, No. 50).
2. Certificate of Compliance filed 3-8-77 (Register 77, No. 11).
3. Amendment filed 9-8-77; effective thirtieth day thereafter (Register 77, No. 37).
4. Amendment filed 6-14-78; effective thirtieth day thereafter (Register 78, No. 24).
5. New subsection (a)(14) filed 4-11-80; effective thirtieth day thereafter (Register 80, No. 15).
6. Repealer and new section filed 5-22-80; effective thirtieth day thereafter (Register 80, No. 21).
7. Amendment filed 2-6-81; effective thirtieth day thereafter (Register 81, No. 6).
8. Amendment filed 4-30-81; effective thirtieth day thereafter (Register 81, No. 18).

§ 90305. Policies for Facility and Services Planning.

NOTE: Authority cited: Sections 437.8, 1203, 1255, Health and Safety Code. Reference: Chapter 854, Statutes of 1976 as amended by Chapter 429, Statutes of 1978 and Chapter 1186, Statutes of 1979.

HISTORY

1. New section filed 12-8-76 as an emergency; effective upon filing (Register 76, No. 50).
2. Certificate of Compliance filed 3-8-77 (Register 77, No. 11).
3. Amendment filed 9-8-77; effective thirtieth day thereafter (Register 77, No. 37).
4. Repealer filed 5-22-80; effective thirtieth day thereafter (Register 80, No. 21).

§ 90307. Policies Relating to Health Facilities.

NOTE: Authority cited: Sections 437.8, 1203, 1255, Health and Safety Code. Reference: Chapter 854, Statutes of 1976 as amended by Chapter 429, Statutes of 1978 and Chapter 1186, Statutes of 1979.

HISTORY

1. New section filed 12-8-76 as an emergency; effective upon filing (Register 76, No. 50).
2. Certificate of Compliance filed 3-8-77 (Register 77, No. 11).
3. Amendment filed 9-8-77; effective thirtieth day thereafter (Register 77, No. 37).
4. Repealer filed 5-22-80; effective thirtieth day thereafter (Register 80, No. 21).

§ 90309. Statewide Policies for General Acute Care.

NOTE: Authority cited: Sections 207 and 437.8, Health and Safety Code. Reference: Chapter 854, Statutes of 1976 as amended by Chapter 429, Statutes of 1978 and Chapter 1186, Statutes of 1979.

HISTORY

1. New Section filed 6-14-78; effective thirtieth day thereafter (Register 78, No. 24).
2. Repealer filed 5-22-80; effective thirtieth day thereafter (Register 80, No. 21).

§ 90311. Statewide Policies for Acute Psychiatric Care.

NOTE: Authority cited: Sections 208 and 437.8, Health and Safety Code. Reference: Chapter 854, Statutes of 1976 as amended by Chapter 429, Statutes of 1978 and Chapter 1186, Statutes of 1979.

HISTORY

1. New section filed 6-14-78; effective thirtieth day thereafter (Register 78, No. 24).
2. Repealer filed 5-22-80; effective thirtieth day thereafter (Register 80, No. 21).

§ 90313. Statewide Policies for Special and Supplemental Services.

NOTE: Authority cited: Sections 208 and 437.8, Health and Safety Code. Reference: Chapter 854, Statutes of 1976 as amended by Chapter 429, Statutes of 1978 and Chapter 1186, Statutes of 1979.

HISTORY

1. New section filed 6–14–78; effective thirtieth day thereafter (Register 78, No. 24).
2. Repealer filed 5–22–80; effective thirtieth day thereafter (Register 80, No. 21).

§ 90315. Statewide Policies for Health Facilities Providing Long–Term Care.

NOTE: Authority cited: Sections 208 and 437.8, Health and Safety Code. Reference: Chapter 854, Statutes of 1976 as amended by Chapter 429, Statutes of 1978 and Chapter 1186, Statutes of 1979.

HISTORY

1. New section filed 6–14–78; effective thirtieth day thereafter (Register 78, No. 24).
2. Repealer filed 5–22–80; effective thirtieth day thereafter (Register 80, No. 21).

§ 90317. Statewide Method for Calculating Resource Requirements.

NOTE: Authority cited: Sections 208 and 437.8, Health and Safety Code. Reference: Chapter 854, Statutes of 1976 as amended by Chapter 429, Statutes of 1978 and Chapter 1186, Statutes of 1979.

HISTORY

1. New section filed 6–14–78; effective thirtieth day thereafter (Register 78, No. 24).
2. Editorial correction (Register 78, No. 40).
3. Repealer filed 5–22–80; effective thirtieth day thereafter (Register 80, No. 21).

Article 5. Certificate of Need

§ 90401. Projects Requiring a Certificate of Need.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Section 437.10, Health and Safety Code.

HISTORY

1. Amendment of subsections (c)(4) and (c)(10)(A) filed 3–1–78; effective thirtieth day thereafter (Register 78, No. 9). For prior history, see Register 77, No. 22.
2. Editorial correction (Register 78, No. 9).
3. Amendment of subsections (c)(10) and (c)(11)(A) filed 4–10–78; effective thirtieth day thereafter (Register 78, No. 15).
4. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).
5. Repealer filed 7–11–84; effective thirtieth day thereafter (Register 84, No. 28).

§ 90403. Projects Exempt from Certificate of Need Review Procedures.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90407. Projects Necessary Because of Disaster or Other Emergency.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Section 437.11, Health and Safety Code.

HISTORY

1. Amendment of subsections (d) and (h) filed 5–25–77; effective thirtieth day thereafter (Register 77, No. 22).
2. Amendment of subsection (f) filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
3. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).
4. Repealer filed 7–11–84; effective thirtieth day thereafter (Register 84, No. 28).

§ 90409. Projects to Comply with Law or Regulation.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Section 437.11, Health and Safety Code.

HISTORY

1. Amendment of subsection (c)(4) filed 12–8–76 as an emergency; effective upon filing (Register 76, No. 50).
2. Certificate of Compliance filed 3–8–77 (Register 77, No. 11).
3. Amendment filed 5–25–77; effective thirtieth day thereafter (Register 77, No. 22).
4. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).
5. Repealer filed 7–11–84; effective thirtieth day thereafter (Register 84, No. 28).

§ 90411. Projects Under the Capital Expenditure Threshold.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Section 437.10, Health and Safety Code.

HISTORY

1. Amendment filed 4–10–78; effective thirtieth day thereafter (Register 78, No. 15).
2. Amendment filed 10–14–83; designated effective 10–17–83; pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).
3. Repealer filed 7–11–84; effective thirtieth day thereafter (Register 84, No. 28).

§ 90412. Establishment and Adjustment of the Capital Expenditure Threshold.

NOTE: Authority cited: Sections 437.6, 437.10 and 446.2, Health and Safety Code; Section 11152, Government Code. Reference: Section 437.10, Health and Safety Code.

HISTORY

1. New section filed 4–10–78; effective thirtieth day thereafter (Register 78, No. 15).
2. Amendment filed 4–26–79; effective thirtieth day thereafter (Register 79, No. 17).
3. Amendment restoring subsection (b) (inadvertently repealed by 4–26–79 order) filed 5–4–79; effective thirtieth day thereafter (Register 79, No. 17).
4. Amendment of subsection (a) filed 7–11–80; effective thirtieth day thereafter (Register 80, No. 28).
5. Amendment of subsection (a) filed 8–26–81; effective thirtieth day thereafter (Register 81, No. 35).
6. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90413. Notice of Intent.

(a) Except as provided in Health and Safety Code Section 437.15 any person with an intent to apply for a certificate of need shall submit a notice of intent to the Office and the appropriate area agency at least 30 days prior to the submission of an application.

(b) The notice of intent shall be delivered or sent to the Office of Statewide Health Planning and Development, at 1600 9th Street, Sacramento, California 95814.

(c) The notice of intent shall include:

(1) Description of the project, including location.

(2) Estimated cost.

(3) Anticipated filing date of application.

(4) If available, information concerning the status of any EIR (Environmental Impact Report) or negative declaration prepared, in preparation, or planned with respect to the project.

(5) Names of lead agency and responsible agencies designated with respect to the project, if known.

(d) The notice of intent shall expire after six months, except that upon the applicant's written request to the Office and concurrent notification of the area agency the notice will be extended for an additional six months. Such request shall be valid only if received by the Office before expiration of the notice.

(e) The Office, for good cause shown, may shorten or waive the period in subdivision (a) above.

NOTE: Authority cited: Section 437.6 and 438.3, Health and Safety Code. Reference: Section 438.3, Health and Safety Code.

HISTORY

1. Amendment filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
2. Amendment filed 4–11–80; effective thirtieth day thereafter (Register 80, No. 15).
3. Repealer of subsection (g) filed 4–9–82; effective thirtieth day thereafter (Register 82, No. 15).
4. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).
5. Amendment of subsections (a) and (e) filed 2–28–85; effective thirtieth day thereafter (Register 85, No. 9).

§ 90415. Application Fee.

(a) Each application for a certificate of need shall be accompanied by a remittance, except those exempted by law, the amount to be the sum of the appropriate base fee and project fee, as indicated below:

(1) Base fee:

General Acute Care Hospital	$500.00
Acute Psychiatric Hospital	$500.00
Special Hospital	$500.00
General Acute Care/Rehabilitation Hospital	$500.00
Psychiatric Health Facility	$500.00
Chemical Dependency Recovery Hospital	$500.00
Skilled Nursing Facility	$350.00
Intermediate Care Facility	$350.00
Small Intermediate Care Facility/ Developmentally Disabled Habilitative	$350.00
Specialty Clinic	$200.00

(2) Project fee, applicable to all facilities except small intermediate care facility/developmentally disabled habilitative:

Project Cost	*Fee*
$0 to $1,999,999	$1,000
$2,000,000 to $2,999,999	$2,000
$3,000,000 to $3,999,999	$3,000
$4,000,000 to $4,999,999	$4,000
$5,000,000 and over	$4,500

(b) The project fee shall be adjusted when the Office verifies the cost estimate for the project.

(c) The applicant shall submit any additional project fee required following the verification by the Office of the cost estimate for the project.

NOTE: Authority cited: Sections 437.6 and 438.1, Health and Safety Code. Reference: Section 438.1, Health and Safety Code.

HISTORY

1. Amendment filed 11–19–81; effective thirtieth day thereafter (Register 81, No. 47).
2. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90416. Fee for Preparation of EIR or Negative Declaration.

The Office may require a fee, in addition to that required under Section 90415, to pay costs of preparing an EIR or a negative declaration for any project not found to be exempt from CEQA and for which the Office is the lead agency. The applicant shall remit this fee, in accordance with the Office's estimate of costs, before the application is declared complete. The fee shall be adjusted as necessary to reflect actual costs of preparing the EIR or negative declaration. Any excess shall be promptly refunded to the applicant.

NOTE: Authority cited: Sections 437.6 and 438.1, Health and Safety Code; and Section 21089, Public Resources Code. Reference: Section 438.1, Health and Safety Code; and Section 21089, Public Resources Code.

HISTORY

1. New section filed 4–11–80; effective thirtieth day thereafter (Register 80, No. 15).
2. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90417. Special Fees.

(a) Health Facilities, except those exempt by law and long–term care facilities (as defined by Section 97005(d), California Code of Regulations), shall be charged a special fee as follows:

(1) For the last fiscal year ending on or before June 30, of the preceding calendar year the fee shall be 0.034 percent of the gross operating cost for the provision of health care services as determined by the Office.

(b) Long–term care facilities (as defined by Section 97005(d), California Code of Regulations), except those exempt by law, shall be charged a special fee as follows:

(1) For the last fiscal year ending on or before June 30, of the preceding calendar year, the fee shall be 0.034 percent of the gross operating cost for the provision of health care services as determined by the Office.

(c) Freestanding ambulatory surgery clinics as defined in Health and Safety Code 128700(e) shall be charged a special fee that shall be established at an amount equal to the number of ambulatory surgery data records submitted to the Office pursuant to Section 128737 for encounters in the preceding calendar year multiplied by fifty cents ($.50).

NOTE: Authority cited: Sections 127150, 127280, 128700 and 128810, Health and Safety Code. Reference: Sections 127280 and 128737, Health and Safety Code.

HISTORY

1. Amendment filed 5–25–77; effective thirtieth day thereafter (Register 77, No. 22).
2. Repealer and new section filed 5–22–80; effective thirtieth day thereafter (Register 80, No. 21).
3. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).
4. Amendment filed 6–8–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 23).
5. Amendment of subsection (a)(1) filed 6–21–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 25).
6. Amendment of subsection (a)(1) filed 6–24–86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 26).
7. Amendment of subsection (a)(1) filed 6–10–87; operative 6–10–87 (Register 87, No. 25).
8. Amendment of Subsection (a)(1) filed 2–15–89; operative 3–12–89 (Register 89, No. 8).
9. Amendment of subsections (a) and (a)(1), new subsections (b) and (b)(1), and amendment of NOTE filed 3–31–99 as an emergency; operative 3–31–99 (Register 99, No. 14). A Certificate of Compliance must be transmitted to OAL by 7–29–99 or emergency language will be repealed by operation of law on the following day.
10. Editorial correction of subsection (b) (Register 99, No. 21).
11. Certificate of Compliance as to 3–31–99 order transmitted to OAL 6–11–99 and filed 7–2–99 (Register 99, No. 27).
12. Amendment of subsections (a)(1) and (b)(1) filed 4–26–2004 as an emergency; operative 4–26–2004 (Register 2004, No. 18). A Certificate of Compliance must be transmitted to OAL by 8–24–2004 or emergency language will be repealed by operation of law on the following day.
13. Certificate of Compliance as to 4–26–2004 order transmitted to OAL 7–13–2004 and filed 8–5–2004 (Register 2004, No. 32).
14. Amendment of subsections (a)(1) and (b)(1) filed 6–30–2005; operative 6–30–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 26).
15. New subsection (c) and amendment of NOTE filed 11–21–2006; operative 11–21–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 47).

§ 90419. Application Submission.

(a) Any person may submit to the Office an application for a certificate of need, provided that the required notice period has passed since the receipt by the Office of a notice of intent for the project or provided the Office has waived the notice of intent requirement.

(b) A single application may be filed for a project that includes more than one action listed individually in Health and Safety Code Section 437.10 when the entire project can be shown by the applicant to be interdependent. As used in this section, "interdependent" shall mean inseverable for purposes of making a decision.

(c) An applicant may submit two or more applications simultaneously and request the Office to process the applications together. For each application submitted a separate fee shall be paid.

(d) The applicant shall submit an original and the required copies of the application (not to exceed five copies) to the specific address identified by the Office. Such application shall be on the forms and in the manner prescribed by the Office and shall be accompanied by the required fee.

(e) The applicant shall, concurrently with submission to the Office, submit the number of copies required by the area agency, not to exceed ten copies.

(f) The applicant shall submit with the application evidence regarding all of the applicable criteria set forth in Article 11.

(g) The applicant's failure to respond within six months to notification that the application is incomplete shall constitute withdrawal of the application.

NOTE: Authority cited: Sections 437.6, 438, 438.1, 438.3, 439 and 446.2, Health and Safety Code. Reference: Sections 438, 438.1, 438.3 and 439, Health and Safety Code.

HISTORY

1. Amendment filed 5–25–77; effective thirtieth day thereafter (Register 77, No. 22).

2. Amendment of subsection (d) filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
3. Amendment of subsection (d) filed 1–11–82; effective thirtieth day thereafter (Register 82, No. 3).
4. Repealer of subsection (f) filed 4–9–82; effective thirtieth day thereafter (Register 82, No. 15).
5. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90420. Projects Not Directly Related to Patient Care.

NOTE: Authority cited: Sections 437.6, 437.15 and 438, Health and Safety Code. Reference: Sections 437.15 and 438.3, Health and Safety Code.

HISTORY

1. New section filed 5–17–83; designated effective 4–22–83 pursuant to Government Code Section 11349.3 (Register 83, No. 21).
2. Amendment of NOTE filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).
3. Repealer filed 7–11–84; effective thirtieth day thereafter (Register 84, No. 28).

§ 90421. Incomplete Application.

NOTE: Authority cited: Sections 437.6, 438.1, 438.2, and 438.4, Health and Safety Code; and Sections 21089 and 21100, Public Resources Code. Reference: Sections 438.1 and 438.2, Health and Safety Code; and Sections 21082, 21089 and 21100, Public Resources Code.

HISTORY

1. Amendment of subsections (c) and (d) filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
2. Amendment filed 4–11–80; effective thirtieth day thereafter (Register 80, No. 15).
3. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90422. Projects for Sole Community Providers or Long Term Care.

(a) For purposes of this section and Health and Safety Code Section 437.15 a sole community provider is any general acute care hospital eligible to be designated as a primary health service hospital pursuant to Health and Safety Code Section 1339.9.

(b) An application eligible for consideration under Health and Safety Code Section 437.15 shall be filed on the forms specified by the Office for such projects.

(c) Upon receipt of an application on forms specified by the Office, the Division shall evaluate the application to determine whether the project is for a sole community provider or long term care.

(d) If the Division determines that the project is for a sole community provider or long term care the Division shall publish the notice required by paragraph 2 of subdivision (c) of Health and Safety Code Section 437.15.

(e) If the Division determines that the project is not for a sole community provider or long term care the Division shall so notify the applicant and shall treat the application as a notice of intent pursuant to Health and Safety Code Section 438.3.

NOTE: Authority cited: Sections 437.6, 437.15 and 438, Health and Safety Code. Reference: Sections 437.15 and 438.3, Health and Safety Code.

HISTORY

1. New section filed 2–28–85; effective thirtieth day thereafter (Register 85, No. 9).

§ 90423. Complete Application.

The application shall be considered to be filed as a complete application on the date the notice of completeness is sent to the applicant or the sixteenth day following the Office's receipt of the application, whichever is earlier, or, when the applicant has made a request pursuant to Health and Safety Code Section 438.2(b), on the fifth business day following receipt by the Office of the request, unless the Office makes a timely determination that the application may not be declared complete.

NOTE: Authority cited: Sections 437.6 and 438.2, Health and Safety Code. Reference: Sections 438.2 and 438.5, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
2. Amendment filed 5–17–83; designated effective 4–22–83 pursuant to Government Code Section 11349.3 (Register 83, No. 21).
3. Amendment of NOTE filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90425. Verification of Certified Cost Estimates.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90427. Public Inspection.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90429. Amendments to Applications.

(a) Amendments to an application shall be submitted in writing to the Office and the appropriate area agency.

(b) An application with amendments shall be treated as a new application, unless:

(1) The amendments do not materially affect the scope, location, or cost of the proposed project, or change the identity of the proposed licensee; and

(2) Extensive additional analysis of the application is not necessitated by the amendments.

(c) The applicant may be required to pay additional fees as determined by the office.

NOTE: Authority cited: Sections 437.6, 438, 438.1 and 438.2, Health and Safety Code. Reference: Section 438, Health and Safety Code.

HISTORY

1. Amendment of subsections (a) and (c) filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
2. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90431. Withdrawal of Applications.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90433. Area Agency Review.

NOTE: Authority cited: Sections 437.6, 437.7, 437.8, 437.15 and 438.4, Health and Safety Code. Reference: Sections 437.7 and 438.4, Health and Safety Code.

HISTORY

1. Amendment of subsection (b) filed 12–8–76 as an emergency; effective upon filing (Register 76, No. 50).
2. Certificate of Compliance filed 3–8–77 (Register 77, No. 11).
3. Amendment filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
4. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).
5. Repealer filed 7–11–84; effective thirtieth day thereafter (Register 84, No. 28).

Article 6. Hearing Procedure on Applications for a Certificate of Need

§ 90501. Time and Place of Hearing.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90503. Notice of Hearing.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90504. Informal Hearings.

(a) A request for an informal hearing, in lieu of and in the alternative to the formal procedures described in Health and Safety Code Section 438.5, shall be made in writing and addressed to the Division of Health Planning and Review, Fourth Floor, 1600 Ninth Street, Sacramento, CA 95814.

(b) The request shall be made after the Office has ordered a hearing pursuant to Health and Safety Code Section 438.5 and shall be made prior to commencement of the formal hearing.

(c) The request may be delivered prior to issuance of an order for a formal hearing by the Office. If so, the request shall be deemed to have been received, for purposes of the five day period within which the Office must order an informal hearing, on the earlier of:

(1) the last day the Office is allowed to issue an order for a formal hearing; or

(2) the date the Office issues the order for the informal hearing.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Section 438.51, Health and Safety Code.

HISTORY

1. New section filed 2–28–85; effective thirtieth day thereafter (Register 85, No. 9).

§ 90505. Service of Papers.

HISTORY

1. Amendment of subsection (b) filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
2. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90507. Parties.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90509. Obligations of the Parties Prior to the Hearing.

(a) In preparing the intended position, the Division shall take into account any significant environmental effects identified in a final EIR on

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the project, if available, and shall, whenever appropriate, consider feasible alterations in the project to mitigate or avoid the significant environmental effects. The Division shall, if necessary, revise an intended position to account for information in a final EIR or negative declaration submitted after preparation of the initial intended position.

(b) At least 15 days prior to the hearing each party shall serve upon each of the other parties and upon the hearing officer a list of witnesses intended to be presented together with estimated time for direct examination of each witness. The list shall include the name, address, and title of each intended witness.

NOTE: Authority cited: Sections 437.6 and 438.5, Health and Safety Code; and Sections 21000(g), 21081 and 21100, Public Resources Code. Reference: Section 438.5, Health and Safety Code; and Section 21081, Public Resources Code.

HISTORY

1. Amendment of subsection (b) filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
2. Amendment filed 4–11–80; effective thirtieth day thereafter (Register 80, No. 15).
3. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).
4. Amendment filed 2–28–85; effective thirtieth day thereafter (Register 85, No. 9).

§ 90511. Requests for Depositions.

HISTORY

1. Amendment of subsection (a) filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
2. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90512. Witnesses and Subpoenas.

NOTE: Authority cited: Sections 208, 437.7–437.11, 437.13, 438.5, 438.6, 1203 and 1255, Health and Safety Code; Chapter 854 (Statutes of 1976). Reference: AB 4001, Chapter 854, Statutes of 1976.

HISTORY

1. New section filed 12–8–76 as an emergency; effective upon filing (Register 76, No. 50).
2. Certificate of Compliance filed 3–8–77 (Register 77, No. 11).
3. Amendment of subsections (d) and (e) filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
4. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90513. Hearing Procedure.

NOTE: Authority cited: Sections 437.6, and 438.5, Health and Safety Code. Reference: Section 438.5, Health and Safety Code.

HISTORY

1. Amendment of subsection (b) filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
2. Amendment filed 4–11–80; effective thirtieth day thereafter (Register 80, No. 15).
3. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90515. Basis for Decisions on Projects.

(a) The basis for decisions by the Office on applications for Certificates of Need shall be:

(1) The Statewide Health Facilities and Services Plan specified in Health and Safety Code Section 437.7, Subdivision (b).

(2) The Statewide Policies developed and adopted pursuant to Health and Safety Code Section 437.8, including the review criteria established in Article 11.

(b) In deciding upon a project for which an environmental impact report has been prepared, the Office shall consider and make written findings with respect to that report.

(1) If the report identifies one or more significant environmental effects of the project, the Office shall not approve the project unless the Office makes one or more of the following written findings, accompanied by a statement of facts supporting each finding:

(A) Changes or alterations which mitigate or avoid the significant environmental effects of the project identified in the final EIR have been required or incorporated into the project.

(B) Changes or alterations which would mitigate or avoid the significant environmental effects of the project identified in the final EIR are within the responsibility and jurisdiction of another public agency and not of the Office. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

(C) Specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR.

(2) The findings required by (1) shall be supported by substantial evidence in the record.

(3) The finding described in (1)(B) shall not be made if the Office has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives.

NOTE: Authority cited: Sections 437.6, 437.9 and 438.5, Health and Safety Code; and Sections 21000, 21001, 21002.1 and 21082, Public Resources Code. Reference: Section 438.5, Health and Safety Code.

HISTORY

1. Amendment filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
2. Editorial correction removing subsections (b) and (c), and correcting previous history note (Register 78, No. 24).
3. New subsection (b) filed 4–11–80; effective thirtieth day thereafter (Register 80, No. 15).
4. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90517. Decisions.

HISTORY

1. Amendment filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
2. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

Article 7. Appeals

§ 90551. Appeals.

(a) The operation of the administrative appeals process for certificate of need applications established b Health and Safety Code Sections 438.8 to 438.12, inclusive, and implemented by this Article is suspended.

(b) No petition for appeal shall be accepted by the Council after the effective date of this regulation.

(c) Any appeal pending as of the date this suspension becomes effective shall be processed in accordance with Article 7 as it stood immediately before that date.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Section 437.6, Health and Safety Code.

HISTORY

1. Repealer and new section filed 5–17–83; designated effective 4–22–83 pursuant to Government Code Section 11349.3 (Register 83, No. 21).
2. Amendment of NOTE filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).
3. Amendment of subsection (a) filed 2–28–85; effective thirtieth day thereafter (Register 85, No. 9).

§ 90553. Appeal Filing Procedures.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90555. Service of Papers.

HISTORY

1. Repealer filed 10–14083; designated effective 10–17–83, pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90557. Certification of Oral Arguments.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90559. Notice of Hearing.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90561. Appeal Hearing Procedure.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90563. Notice of Meeting.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90565. Decisions on Appeal.

HISTORY

1. Repealer 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90567. Disqualification.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

Article 8. Certificate of Exemption

§ 90601. Types of Exempt Projects.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90603. Projects Not Subject to Review by a Voluntary Area Health Planning Agency.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90605. Projects Previously Decided by a Voluntary Area Health Planning Agency.

HISTORY

1. Amendment of subsections (a) and (c) filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
2. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90607. Exemption Requests for Remodeling and Replacement Projects.

NOTE: Authority cited: Sections 437.6, 437.13 and 437.14, Health and Safety Code. Reference: Sections 437.13 and 437.14, Health and Safety Code.

HISTORY

1. Amendment of subsection (f)(4) filed 12–8–76 as an emergency; effective upon filing (Register 76, No. 50).
2. Certificate of Compliance filed 3–8–77 (Register 77, No. 11).
3. Amendment of subsection (a) filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
4. Amendment filed 3–1–78; effective thirtieth day thereafter (Register 78, No. 9).
5. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).
6. Repealer filed 7–11–84; effective thirtieth day thereafter (Register 84, No. 28).

§ 90608. Facility Serving an Underserved Population.

NOTE: Authority cited: Sections 208, 437.10, 437.13, and 437.14, Health and Safety Code. Reference: Sections 437.10A, 437.13 and 437.14, Health and Safety Code; and Chapter 854, Statutes of 1976.

HISTORY

1. New section filed 3–1–78; effective thirtieth day thereafter (Register 78, No. 9).
2. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90609. Delineation of Services and Departments Within Health Facilities.

NOTE: Authority cited: Sections 437.6 and 437.13, Health and Safety Code. Reference: Section 437.13, Health and Safety Code.

HISTORY

1. New section filed 3–1–78; effective thirtieth day thereafter (Register 78, No. 9).
2. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).
3. Repealer filed 7–11–84; effective thirtieth day thereafter (Register 84, No. 28).

Article 9. Terms and Conditions

§ 90701. Notice of Decision.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90703. Effective Date of Final Decisions.

HISTORY

1. Amendment of subsections (a), (e) and new subsection (f) filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
2. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90704. Transferability of Certificates.

(a) A certificate of need or certificate of exemption is particular to one specific existing or proposed facility and is not transferable or assignable to another facility.

(b) A certificate of need or certificate of exemption pertaining to a project for an existing facility is not invalidated by transfer of ownership of that facility.

(c) A certificate of need for establishment of a new facility may not be transferred to a person other than the applicant.

NOTE: Authority cited: Section 437.6, Health and Safety Code. Reference: Sections 437.10 and 437.8, Health and Safety Code.

HISTORY

1. New section filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90705. Expiration of Certificates.

(a) A certificate of need or a certificate of exemption shall expire 18 months after the effective date unless one of the following occurs:

(1) The certificate holder has commenced the project covered by the certificate and is diligently pursuing the project to completion as determined by the Office.

(A) Commencement of the project for purposes of this subsection shall mean that the applicant has executed a written contract for completion of the project or has submitted to the Office preliminary drawings and outline specifications which fully comply with applicable requirements of Title 24.

(B) Diligently pursuing the project to completion for purposes of this section means that the project is progressing toward completion according to a reasonable time schedule and, where applicable, that construction of the project has commenced in accordance with the schedule submitted in the application for the certificate.

(2) The expiration date of the certificate has been extended by the Director upon a showing of good cause in accordance with Subsection (c). Extension shall not cumulatively exceed a total of 12 months beyond the original expiration date of the certificate.

(b) A certificate of exemption issued under Health and Safety Code Section 437.117 shall expire 12 months after issuance unless the project has been completed or the expiration date has been extended in accordance with subdivision (c). For purposes of this subdivision, completion of the project shall be the date the Department of Health Services approves the equipment or space for use. In order for the project to be determined complete for the purposes of this section, the facility must submit evidence of completeness to the Office of Statewide Health Planning and Development.

(c) The Director may extend the time for commencement or completion of a project if the holder of the certificate satisfies the Director that the delay is the result of an unpreventable or unexpected occurrence such as an emergency, strike, disaster, unforeseen shortage of materials, required governmental agency review or other such unforeseen event.

(d) Applicants requesting extensions under this section shall submit a request at least 30 days prior to the expiration date of the certificate.

(e) Before making a final determination that a certificate of need or a certificate of exemption has expired, the Office shall afford an opportunity for a hearing to any applicant whose certificate of need or certificate of exemption appears to have expired.

NOTE: Authority cited: Sections 437.6 and 438.6, Health and Safety Code; and Section 11180, Government Code. Reference: Section 438.6, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
2. Amendment filed 3–1–78; effective thirtieth day thereafter (Register 78, No. 9).
3. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).
4. Amendment filed 2–28–85; effective thirtieth day thereafter (Register 85, No. 9).

§ 90705.1. Extensions Necessitated by Uncertainty of Government Revenue Source.

NOTE: Authority cited: Sections 208, 438.6 and 437.14, Health and Safety Code. Reference: Sections 438.6 and 437.14, Health and Safety Code.

HISTORY

1. New section filed 8–2–78 as an emergency; effective upon filing (Register 78, No. 31).
2. Certificate of Compliance filed 11–29–78 (Register 78, No. 48).
3. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90707. Revocation of Certificates.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

Article 10. Development of Plans

§ 90801. Area Plans.

(a) Each area agency shall develop an area plan in accordance with the requirements of this chapter and such other statewide procedures, specifications, and format as my be established by the Office.

(b) An area plan shall be for the entire health planning area served by the agency.

(c) Each area agency shall establish resource requirements, consistent with statewide policies, and the Plan Development Guidelines which have been incorporated by reference into these regulations by Section 90304.

(d) In using data and methods in accordance with the Plan Development Guidelines, incorporated by reference into these regulations by Section 90304, area agencies shall consider but are not limited to the following:

(1) Current and projected civilian population of the service area.
(2) Utilization of existing facility health resources.
(3) Appropriate utilization levels of facility health resources.
(4) Optimal capacity of facility health resources.
(5) The service area for the specified types of facility health resources.

(e) In developing the area plan, the area agency shall utilize the data and methods provided by the Office. The area agency may review such data and methods in public meeting and may propose alternate data sources that are more responsive to the needs of the health planning area and may use such data sources with the approval of the Office.

(f) The area agency may propose alternate methods, consistent with cost effective utilization of health facilities, if the area agency determines with the concurrence of the office that the alternative methods will be more responsive to the needs of the health planning area.

(g) Area plans shall identify and quantify existing resources and community needs for each bed classification and project type required by the Office to be addressed.

NOTE: Authority cited: Sections 437.6, 437.7 and 437.8, Health and Safety Code. Reference: Sections 437.7 and 437.8, Health and Safety Code.

HISTORY

1. Amendment filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
2. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90803. Data and Methods of Area Plans.

HISTORY

1. Amendment filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
2. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90807. General Requirements for Recommended Actions.

NOTE: Authority cited: Sections 437.6, 437.7 and 437.8, Health and Safety Code. Reference: Sections 437.7 and 437.8, Health and Safety Code.

HISTORY

1. New section filed 6–14–78; effective thirtieth day thereafter (Register 78, No. 24).
2. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90809. Area Agency Alternative Methods and Rates.

NOTE: Authority cited: Sections 208 and 437.8, Health and Safety Code. Reference: Chapter 854, Statutes of 1976 as amended by Chapter 429, Statutes of 1978 and Chapter 1186, Statutes of 1979.

HISTORY

1. New section filed 6–14–78; effective thirtieth day thereafter (Register 78, No. 24).
2. Repealer filed 5–22–80; effective thirtieth day thereafter (Register 80, No. 21).

§ 90811. Health Facility Planning Areas.

(a) The Office shall designate health facility planning areas to be used by area agencies for the planning and review of facilities, services, and equipment.

(b) In designating health facility planning areas, the Office shall consider at least the following factors:

(1) Size and distribution of resident and transient population and demographic characteristics.
(2) Population base required to support specified types of facility health resources.
(3) Natural geographic boundaries.
(4) Governmental jurisdictions.
(5) Transportation routes and travel time.
(6) Trade patterns.
(7) Number and distribution of major providers.
(8) Customary health service delivery patterns.
(9) Location of existing facilities and services.
(10) Climatic conditions that affect the use of health resources.
(11) Patterns of patient origin.

(c) Health facility planning areas shall, to the extent possible, not divide county boundaries, individual health planning areas, or census tracts.

(d) Health facility planning areas should encompass the largest population base possible to assure economic feasibility and quality of care.

(e) Changes in health facility planning areas may be proposed to the Office by area agencies at any time; however, the Office shall consider such proposals on an annual basis with the advice of the Council.

NOTE: Authority cited: Sections 437.6, 437.7 and 437.8, Health and Safety Code. Reference: Sections 437.7 and 437.8, Health and Safety Code.

HISTORY

1. Amendment of subsection (d) filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
2. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90813. Inventory and Utilization Data of Health Resources.

HISTORY

1. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90815. Population to Be Used in Area Planning.

(a) The Office shall annually prepare population estimates and projections to be used in area plans.

(b) Population estimates and projections prepared by the Office for counties shall be based on estimates provided by the California Department of Finance.

NOTE: Authority cited: Sections 437.6, 437.7 and 437.8, Health and Safety Code. Reference: Sections 437.7 and 437.8, Health and Safety Code.

HISTORY

1. Amendment filed 9-8-77; effective thirtieth day thereafter (Register 77, No. 37).
2. Amendment filed 10-14-83; designated effective 10-17-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90819. Statewide Health Facilities and Services Plan.

HISTORY

1. Repealer filed 10-14-83; designated effective 10-17-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90821. Procedures for Adoption of Area Plans.

(a) Each area agency shall conduct at least one public meeting on its proposed area plan prior to its adoption. interested parties shall be given the opportunity to submit their views orally at the meeting and in writing before or during the meeting.

(b) At least 30 days before the meeting the agency shall publish a notice of the hearing in at least two newspapers of general circulation throughout the health planning area. The notice shall:

(1) Identify the time and place of the meeting and the availability and location of the proposed plan for public review.

(2) Be expressed in the predominant languages used in the health planning area, using words of plain meaning. Predominant languages shall be English and any other language used as a primary language by three percent or more of the population in the health planning area if a newspaper of general circulation is available which will reach persons with such predominant languages.

(c) The governing body of the area agency shall adopt the area plan in a public meeting. Notice shall conform to all of the criteria contained in (b) above.

(d) Each area agency shall forward to the Office of Statewide Health Planning and Development a copy of the minutes of the meeting at which the area plan was adopted and five copies of the plan. One copy of the plan shall be forwarded to the Advisory Health Council.

NOTE: Authority cited: Sections 437.6, 437.7 and 437.8, Health and Safety Code. Reference: Sections 437.7 and 437.8, Health and Safety Code.

HISTORY

1. New section filed 6-14-78; effective thirtieth day thereafter (Register 78, No. 24).
2. Amendment of subsection (d) filed 1-11-82; effective thirtieth day thereafter (Register 82, No. 3).
3. Amendment filed 10-14-83; designated effective 10-17-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90823. Adoption of Statewide Health Facilities and Services Plan.

NOTE: Authority cited: Section 437.7(b), Health and Safety Code. Reference: AB 4001, Chapter 854, Statutes of 1976.

HISTORY

1. New section filed 3-23-79; effective 3-21-79 pursuant to Section 437.7(b), Health and Safety Code, and Section 11422(a), Government Code (Register 79, No. 13).
2. Amendment filed 4-4-80; designated effective 3-28-80 pursuant to Section 437.7(b), Health and Safety Code, and Section 11422(a), Government Code (Register 80, No. 14).
3. Repealer filed 10-14-83; designated effective 10-17-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

Article 11. Review Criteria

§ 90901. Criteria for Determining the Desirability of Projects.

(a) Except as otherwise provided in Health and Safety Code Section 437.12, the Office shall not issue a certificate of need for any project unless the project is found to be desirable in accordance with this section and, for a surgical clinic, Section 90927.

(b) Except as otherwise provided in Health and Safety Code Section 437.12, no project shall be found to be desirable unless the applicant establishes by a preponderance of the evidence that the project meets all of the following:

(1) The project will fill an unmet community need identified in the Statewide Health Facilities and Services Plan, if the type of project is addressed in the Plan.

(2) The project will not have a substantial adverse effect on the utilization of other facilities offering the same or similar services or such adverse effect is outweighed by the benefits of the project to the population to be served.

(3) The project will be optimally utilized within a reasonable time period in a financially feasible and economically efficient manner.

(4) Financial resources exist to successfully complete and implement the project.

(5) The project and the facility comply with applicable federal, state, and local laws and regulations.

(6) The applicant is capable of completing and implementing the project.

(7) As applicable there is community support for the facility and the project.

(8) The project will, as applicable, enhance accessibility of health services to the population to be served.

(9) The project will benefit the population to be served.

(10) The project will not adversely affect the indigent population of the area.

NOTE: Authority cited: Sections 437.6, 437.8 and 437.9, Health and Safety Code. Reference: Sections 437.8 and 437.9, Health and Safety Code.

HISTORY

1. Amendment of subsections (a), (b) and (d) filed 9-8-77; effective thirtieth day thereafter (Register 77, No. 37).
2. Amendment filed 10-14-83; designated effective 10-17-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).
3. Amendment filed 2-28-85; effective thirtieth day thereafter (Register 85, No. 9).

§ 90902. Criteria for Projects Not Directly Related to Patient Care.

NOTE: Authority cited: Sections 437.6, 437.8, 437.9 and 437.15, Health and Safety Code. Reference: Sections 437.8, 437.9 and 437.15, Health and Safety Code.

HISTORY

1. New section filed 5-17-83; designated effective 4-22-83 pursuant to Government Code Section 11349.3 (Register 83, No. 21). For history of former section, see Registers 77, No. 37; 77, No. 11 and 76, No. 50.
2. Amendment of NOTE filed 10-14-83; designated effective 10-17-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).
3. Repealer filed 7-11-84; effective thirtieth day thereafter (Register 84, No. 28).

§ 90903. Criteria for Comprehensive Group Practice Prepayment Health Care Service Plans.

HISTORY

1. Amendment filed 9-8-77; effective thirtieth day thereafter (Register 77, No. 37).
2. Editorial correction of printing error (Register 83, No. 30).
3. Repealer filed 10-14-83; designated effective 10-17-83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90904. Criteria for Equipment Replacement Projects Not Exempt Under Section 90607 Solely Because of Section 90607(c)(6).

NOTE: Authority cited: Sections 437.6, 437.8 and 437.9, Health and Safety Code. Reference: Sections 437.8 and 437.9, Health and Safety Code.

HISTORY
1. New section filed 4–26–79; effective thirtieth day thereafter (Register 79, No. 17).
2. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).
3. Repealer filed 7–11–84; effective thirtieth day thereafter (Register 84, No. 28).

§ 90905. Criteria for Projects for Which Special Justification is Claimed.

HISTORY
1. Amendment filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
2. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90906. Review of Competing Applications.

(a) When concurrently considering similar applications for certificates of need to serve substantially the same geographic area and population, the Office shall approve only the application or applications which most appropriately meet the needs of the area and population to be served. The Office may approve or disapprove all applications under consideration.

(b) The Office shall seek the cooperation of the applicants in reviewing and making determinations with respect to competing applications. The Office shall not unreasonably delay action on an application for a certificate of need and shall meet requirements of time imposed by statute and regulations unless parties to all affected applications have filed written waivers of time requirements in order to permit concurrent reviews and decisions. If an applicant refuses to waive time limitations, the testimony of any competing applicants shall be taken at the hearing.

(c) In determining which application or applications most appropriately meet the needs of the area and population to be served, the Office shall consider all relevant factors, including but not limited to the following:

(1) Location.

(2) Travel time and transportation costs.

(3) Medical feasibility of utilizing the proposed facilities or services or facility beds, taking into consideration the medical condition of the patients proposed to be served and other relevant information.

(4) Current utilization patterns.

(5) All applicable review criteria.

NOTE: Authority cited: Sections 437.6, 437.7, 437.8 and 437.9, Health and Safety Code. Reference: Sections 437.7, 437.8 and 437.9, Health and Safety Code.

HISTORY
1. New section filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
2. Amendment filed 10–14–83; designated effective thirtieth day thereafter (Register 83, No. 42).

§ 90907. Criteria for a Burn Center.

NOTE: Authority cited: Sections 208, 437.7–437.11, 437.13, 438.5, 438.6, 1203 and 1255, Health and Safety Code; Chapter 854 (Statutes of 1976). Reference: AB 4001, Chapter 854, Statutes of 1976.

HISTORY
1. New section filed 12–8–76 as an emergency; effective upon filing (Register 76, No. 50).
2. Certificate of Compliance filed 3–8–77 (Register 77, No. 11).
3. Amendment filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
4. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90909. Criteria for Cardiovascular Surgery Service.

NOTE: Authority cited: Sections 208, 437.7–437.11, 437.13, 438.5, 438.6, 1203 and 1255, Health and Safety Code; Chapter 854 (Statutes of 1976). Reference: AB 4001, Chapter 854, Statutes of 1976.

HISTORY
1. New section filed 12–8–76 as an emergency; effective upon filing (Register 76, No. 50).
2. Certificate of Compliance filed 3–8–77 (Register 77, No. 11).
3. Amendment filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
4. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90911. Criteria for Chronic Dialysis Stations.

NOTE: Authority cited: Sections 208 and 437.8, Health and Safety Code; Chapter 854 (Statutes of 1976). Reference: 437.10(b) and (c), Health and Safety Code.

HISTORY
1. New section filed 12–8–76 as an emergency; effective upon filing (Register 76, No. 50).
2. Certificate of Compliance filed 3–8–77 (Register 77, No. 11).
3. Amendment filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
4. Amendment of subsection (a) filed 11–18–77; effective thirtieth day thereafter (Register 77, No. 47).
5. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90913. Criteria for a Computerized Tomography (CT) Scanner.

NOTE: Authority cited: Sections 208, 437.7–437.11, 437.13, 438.5, 438.6, 1203 and 1255, Health and Safety Code; Chapter 854 (Statutes of 1976). Reference: AB 4001, Chapter 854, Statutes of 1976.

HISTORY
1. New section filed 12–8–76 as an emergency; effective upon filing (Register 76, No. 50).
2. Certificate of Compliance filed 3–8–77 (Register 77, No. 11).
3. Amendment filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
4. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90915. Criteria for Emergency Medical Service, Basic.

NOTE: Authority cited: Sections 208, 437.7–437.11, 437.13, 438.5, 438.6, 1203 and 1255, Health and Safety Code; Chapter 854 (Statutes of 1976). Reference: AB 4001, Chapter 854, Statutes of 1976.

HISTORY
1. New section filed 12–8–76 as an emergency; effective upon filing (Register 76, No. 50).
2. Certificate of Compliance filed 3–8–77 (Register 77, No. 11).
3. Amendment filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
4. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90917. Criteria for Emergency Medical Service, Comprehensive.

NOTE: Authority cited: Sections 208, 437.7–437.11, 437.13, 438.5, 438.6, 1203 and 1255, Health and Safety Code; Chapter 854 (Statutes of 1976). Reference: AB 4001, Chapter 854, Statutes of 1976.

HISTORY
1. New section filed 12–8–76 as an emergency; effective upon filing (Register 76, No. 50).
2. Certificate of Compliance filed 3–8–77 (Register 77, No. 11).
3. Amendment filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
4. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90919. Criteria for Intensive Care Newborn Nursery Service.

NOTE: Authority cited: Sections 208, 437.7–437.11, 437.13, 438.5, 438.6, 1203 and 1255, Health and Safety Code; Chapter 854 (Statutes of 1976). Reference: AB 4001, Chapter 854, Statutes of 1976.

HISTORY
1. New section filed 12–8–76 as an emergency; effective upon filing (Register 76, No. 50).
2. Certificate of Compliance filed 3–8–77 (Register 77, No. 11).
3. Amendment filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
4. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90921. Criteria for Psychiatric Service.

NOTE: Authority cited: Sections 208, 437.7–437.11, 437.13, 438.5, 438.6, 1203 and 1255, Health and Safety Code; Chapter 854 (Statutes of 1976). Reference: AB 4001, Chapter 854, Statutes of 1976.

HISTORY

1. New section filed 12–8–76 as an emergency; effective upon filing (Register 76, No. 50).
2. Certificate of Compliance filed 3–8–77 (Register 77, No. 11).
3. Amendment filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
4. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90923. Criteria for Radiation Therapy Service.

NOTE: Authority cited: Sections 208, 437.7–437.11, 437.13, 438.5, 438.6, 1203 and 1255, Health and Safety Code; Chapter 854 (Statutes of 1976). Reference: AB 4001, Chapter 854, Statutes of 1976.

HISTORY

1. New section filed 12–8–76 as an emergency; effective upon filing (Register 76, No. 50).
2. Certificate of Compliance filed 3–8–77 (Register 77, No. 11).
3. Amendment filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
4. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90925. Criteria for Renal Transplant Service.

NOTE: Authority cited: Sections 208, 437.7–437.11, 437.13, 438.5, 438.6, 1203 and 1255, Health and Safety Code; Chapter 854 (Statutes of 1976). Reference: AB 4001, Chapter 854, Statutes of 1976.

HISTORY

1. New section filed 12–8–76 as an emergency; effective upon filing (Register 76, No. 50).
2. Certificate of Compliance filed 3–8–77 (Register 77, No. 11).
3. Amendment filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
4. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90927. Criteria for Surgical Clinics.

(a) An applicant for a new surgical clinic shall establish by a preponderance of evidence that:

(1) The surgical clinic will have at least two operating rooms.

(2) The surgical clinic, as a condition of granting staff privileges, will require the physicians to maintain comparable clinical privileges in local general acute care hospitals.

(3) The applicant has an appropriate utilization review plan and quality assurance plan.

(4) The applicant has acceptable written procedures for the transfer of surgical clinic patients and their records in an emergency to an appropriate general acute care hospital in the service area.

(5) The surgical clinic can achieve and maintain a minimum of 240 operating room minutes (not including preparation and clean up time) per operating room per day within three years of commencement and will not cause the utilization at existing surgical clinics to drop below or fail to attain the minimum of 240 operating room minutes per operating room per day. For purposes of this section, surgical operating room minutes shall be calculated on the basis of five days per week and fifty weeks per year.

(6) There will be a sufficient number of physicians in the service area who will use the surgical clinic and will have staff privileges and will enable the clinic to meet the minimum operating room time.

(7) It will be an appropriate facility in the service area, considering equipment, staff, location, and other relevant factors.

(8) The clinic will make provision to serve those who are unable to pay all or a substantial portion of the clinic's fee in advance of the provision of services.

(b) Notwithstanding Section 90901(b)(1), with respect to the determination of unmet need in the community, and notwithstanding Section 90901(b)(2), with respect to the determination of adverse effect, the applicant may demonstrate that area hospitals are not making efforts to fully utilize their ambulatory surgical capacity or providing ambulatory surgical services at a reasonable cost to the community. With respect to the determination of unmet community need for purposes of Section 90901(b)(1), and with respect to the determination of adverse effect under Section 90901(b)(2), the Office shall not consider any hospital in the service area which the applicant demonstrates does not meet both of the following criteria:

(1) The hospital has a functioning, organized ambulatory surgery program with staff, approved policies, procedures, quality of care standards, and other documentation associated with an organized ambulatory surgery program.

(2) The hospital is making good faith efforts to utilize its ambulatory surgical capacity and to provide ambulatory surgical services at a reasonable cost to the community.

NOTE: Authority cited: Sections 437.6, 437.7, 437.8 and 437.9. Health and Safety Code. Reference: Sections 437.7, 437.8 and 437.9, Health and Safety Code.

HISTORY

1. New section filed 12–8–76 as an emergency; effective upon filing (Register 76, No. 50).
2. Certificate of Compliance filed 3–8–77 (Register 77, No. 11).
3. Amendment filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
4. Repealer and new section filed 5–17–83; designated effective 4–22–83 pursuant to Government Code Section 11349.3 (Register 83, No. 21).
5. Repealer and new section filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90929. Criteria for a Basic, Supplemental, Required or Optional Service.

NOTE: Authority cited: Sections 208, 437.7–437.11, 437.13, 438.5, 438.6, 1203 and 1255, Health and Safety Code; Chapter 854 (Statutes of 1976). Reference: AB 4001, Chapter 854, Statutes of 1976.

HISTORY

1. New section filed 12–8–76 as an emergency; effective upon filing (Register 76, No. 50).
2. Certificate of Compliance filed 3–8–77 (Register 77, No. 11).
3. Amendment filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
4. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90931. Criteria for a Capital Expenditure.

NOTE: Authority cited: Sections 208, 437.7–437.11, 437.13, 438.5, 438.6, 1203 and 1255, Health and Safety Code; Chapter 854 (Statutes of 1976). Reference: AB 4001, Chapter 854, Statutes of 1976.

HISTORY

1. New section filed 12–8–76 as an emergency; effective upon filing (Register 76, No. 50).
2. Certificate of Compliance filed 3–8–77 (Register 77, No. 11).
3. Amendment filed 9–8–77; effective thirtieth day thereafter (Register 77, No. 37).
4. Repealer filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

Article 12. Procedures and Requirements Relating to the California Environmental Quality Act

§ 90950. Statement of Policy.

(a) It is the policy of the Office of Statewide Health Planning and Development, in carrying out its responsibilities under Part 1.5 of Division 1, Health and Safety Code, to follow all applicable procedures and requirements of the California Environmental Quality Act and of Chapter 3, Division 6, Title 14, California Administrative Code, which implements CEQA.

(b) When acting as a lead agency the Office shall follow procedures established by the California Environmental Quality Act and by Chapter 3 of Title 14, California Administrative Code.

(c) Procedures and requirements set forth in sufficient detail and with sufficient clarity in CEQA and its implementing regulations shall not be reiterated herein.

NOTE: Authority cited: Section 437.6, Health and Safety Code; and Section 21082, Public Resources Code. Reference: Section 437 et seq., Health and Safety Code; and Section 21082, Public Resources Code.

History

1. New Article 12 (Sections 90950–90962, not consecutive) filed 4–11–80; effective thirtieth day thereafter (Register 80, No. 15).
2. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90952. General Procedures Relating to CEQA.

(a) As early as practicable in the Certificate of Need process the Office shall determine whether a project is exempt from CEQA according to Section 90955. A determination made on the basis of information in a notice of intent shall be reevaluated if the description of the project in the application differs materially from the description in the notice of intent.

(b) If the Office does not find a project to be exempt from CEQA the Office shall keep a copy of the negative declaration or final EIR on file with the application.

NOTE: Authority cited: Sections 437.6, 437.15, 438, 438.2 and 438.3, Health and Safety Code; and Section 21082, Public Resources Code. Reference: Sections 437.15, 438, 438.2 and 438.3, Health and Safety Code; and Section 21082, Public Resources Code.

History

1. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90955. Categorical Exemption.

(a) The following list summarizes, within relevant categories established in Title 14, California Administrative Code, commencing with Section 15101, types of projects which are or may be subject to Certificate of Need requirements but which are categorically exempt from the requirements of CEQA. These types of projects involve no significant environmental impacts.

(1) Class 1: existing facilities. This class consists of the operation, repair, maintenance, or minor alteration of existing structures, facilities, equipment, or topographical features, involving little or no expansion of use.

(A) Change of facility bed classification.

(B) Change of license category.

(C) Establishment of a new service within an existing facility, utilizing existing buildings.

(D) Acquisition of equipment to be used within existing buildings.

(E) Acquisition by a facility of any previously existing building or other capital item or of land when the type of use is not to be significantly changed.

(F) Addition of beds or dialysis stations within an existing building or buildings of a facility, if the capacity of the facility is not increased by more than 25 percent.

(G) Remodeling of existing buildings.

(2) Class 2: replacement or reconstruction. This class consists of replacement or reconstruction in whole or in part of an existing facility on the same site, as long as the replacement or reconstruction does not increase capacity more than 50 percent and the use of the facility does not materially change.

(3) Class 3: new construction of small structures. This class consists of construction and location of single, new, small structures (including those appurtenant to existing structures) and installation of small new equipment.

(b) Any project which is not specifically described above but which is, in the judgment of the Certificate of Need Division, clearly within the scope of any exempt lass described in Title 14, California Administrative Code, commencing with Section 15101, shall be deemed to be exempt from the requirements of CEQA.

(c) A written explanation for a finding that a project is categorically exempt shall be prepared by the Certificate of Need Division and shall be available for public inspection.

NOTE: Authority cited: Sections 437.6 and 467.2, Health and Safety Code; and Section 21084, Public Resources Code. Reference: Sections 437.15 and 438.2, Health and Safety Code; and Section 21084, Public Resources Code.

History

1. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).

§ 90957. Ministerial Projects.

Projects exempted from the requirements of Health and Safety Code Sections 438 to 438.13, are ministerial projects with respect to the certificate of need and certificate of exemption processes. No negative declaration, EIR, or finding that the project is categorically exempt shall be necessary in order for the Office to act on such projects.

NOTE: Authority cited: Sections 437.6, 437.11 and 437.119, Health and Safety Code; and Section 21080, Public Resources Code. Reference: Sections 437.11 and 437.119, Health and Safety Code; and Section 21080, Public Resources Code.

History

1. Amendment filed 10–14–83; designated effective 10–17–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 42).
2. Amendment filed 2–28–85; effective thirtieth day thereafter (Register 85, No. 9).

§ 90962. Requirements for Office Acting As Responsible Agency.

(a) The Office shall be a responsible agency under CEQA with respect to any project which requires a certificate of need, which is not exempt from the requirements of CEQA, which is not ministerial with respect to the certificate of need/exemption process, and for which the Office is not the lead agency.

(b) When acting as a responsible agency, the Office shall provide to the lead agency such consultation and comments as may be requested, in accordance with the requirements of Chapter 3, Division 6, Title 14, California Administrative Code. Whenever possible and appropriate, the Office shall propose changes in a project which would mitigate any significant environmental effect of the project.

NOTE: Authority cited: Section 437.6, Health and Safety Code; and Sections 21002, 21069, 21080.3, 21080.4, 21104 and 21153, Public Resources Code. Reference: Sections 21002, 21069, 21080.3, 21080.4, 21104 and 21153, Public Resources Code.

Chapter 2. Eminent Domain Procedures for Nonprofit Hospitals

Article 1. Definitions

§ 91001. Certificate of Necessity.

"Certificate of Necessity" means the document certifying the Director's determination that a nonprofit hospital has applied for such certification pursuant to the provisions of Section 91017 and 91019 and has been judged in compliance with the provisions of Section 91023 of this chapter.

NOTE: Authority cited: Sections 103, 446.2 and 1260, Health and Safety Code; and Section 11152, Government Code. Reference: Section 1260, Health and Safety Code.

History

1. New Chapter 2 (Sections 91001–91023, not consecutive) filed 8–3–77; effective thirtieth day thereafter (Register 77, No. 32).
2. Editorial correction of NOTE filed 2–23–83 (Register 83, No. 9).

§ 91003. Department.

"Department" means the Office of Statewide Health Planning and Development.

NOTE: Authority cited: Sections 103, 446.2 and 1260, Health and Safety Code; and Section 11152, Government Code. Reference: Section 1260, Health and Safety Code.

History

1. Amendment filed 6–30–78 as an emergency; designated effective at 11:59 p.m. on 6–30–78 (Register 78, No. 26).
2. Certificate of Compliance transmitted to OAH 10–27–78; filed 10–31–78 (Register 78, No. 44).
3. Amendment filed 3–26–79 as procedural and organizational; effective upon filing (Register 79, No. 13).

4. Editorial correction of NOTE filed 2–23–83 (Register 83, No. 9).

§ 91005. Director.

"Director" means the Director of the Office of Statewide Health Planning and Development.

NOTE: Authority cited: Sections 103, 446.2 and 1260, Health and Safety Code; and Section 11152, Government Code. Reference: Section 1260, Health and Safety Code.

HISTORY

1. Amendment filed 6–30–78 as an emergency; designated effective at 11:59 p.m. on 6–30–78 (Register 78, No. 26).
2. Certificate of Compliance transmitted to OAH 10–27–78; filed 10–31–78 (Register 78, No. 44).
3. Amendment filed 3–26–79 as procedural and organizational; effective upon filing (Register 79, No. 13).
4. Editorial correction of NOTE filed 2–23–83 (Register 83, No. 9).

§ 91007. Final Environmental Impact Report.

"Final Environmental Impact Report" means an Environmental Impact Report in compliance with Section 21061 of the Public Resources Code and Section 15146 of Title 14 of the California Administrative Code, and certified in accordance with Section 15085 (g) of Title 14 of the California Administrative Code.

NOTE: Authority cited: Sections 103, 446.2 and 1260, Health and Safety Code; and Section 11152, Government Code. Reference: Section 1260, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 2–23–83 (Register 83, No. 9).

§ 91009. Interested Party.

(a) "Interested party" means:

(1) All owners and occupants of real property affected.

(2) The nonprofit hospital.

(3) The area health planning agency or health systems agency in the area within which the hospital is located.

(4) A representative of any group of 15 or more individuals or organizations who reside or are located in the area within which the hospital is located, if the group shows to the satisfaction of the hearing officer that said group will be affected by the environmental impact of the proposed project, or by the impact of the proposed project on the delivery of health care services in the community.

NOTE: Authority cited: Sections 103, 446.2 and 1260, Health and Safety Code; and Section 11152, Government Code. Reference: Section 1260, Health and Safety Code.

HISTORY

1. Editorial correction of (a)(4) and new NOTE filed 2–23–83 (Register 83, No. 9).

§ 91011. Nonprofit Hospital.

HISTORY

1. Repealer filed 6–10–83; effective thirtieth day thereafter (Register 83, No. 24).

§ 91013. Owners of Real Property Affected.

(a) "Owners of real property affected" means those persons, and the spouses of any such persons, having any legal interest in the real property which is the subject of procedures under this chapter. Such persons shall include but not be limited to:

(1) Owners in fee, as sole owners, joint tenants, tenants–in–common or by purchase of sale agreements.

(2) Lessees or tenants.

(3) Holders of easements or rights of way.

NOTE: Authority cited: Sections 103, 446.2 and 1260, Health and Safety Code; and Section 11152, Government Code. Reference: Section 1260, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 2–23–83 (Register 83, No. 9).

Article 2. General Provisions and Procedures

§ 91015. Applicability.

The provisions of this chapter shall apply to nonprofit hospitals exercising the right of eminent domain under Title 7 of the Code of Civil Procedure and Section 1260 of the Health and Safety Code.

NOTE: Authority cited: Sections 103, 446.2 and 1260, Health and Safety Code; and Section 11152, Government Code. Reference: Section 1260, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 2–23–83 (Register 83, No. 9).

§ 91017. Existing Facility Application for Certificate of Necessity.

(a) Pursuant to the provisions of Section 1260 of the Health and Safety Code, the right of eminent domain exercised by an existing nonprofit hospital shall be initiated by filing with the Department an application for a Certificate of Necessity on forms provided by the Department. A written notice of such application and of the intention to exercise the right of eminent domain shall be given to:

(1) All owners of real property affected.

(2) All reasonably discernible occupants of real property affected.

(3) All reasonably discernible occupants of property within 1000 yards of the real property affected.

(b) The written notice shall specify a location in the area within which the hospital is located where a copy of the application and supporting documents shall be maintained for public inspection.

(c) At least one copy of the application and supporting documents shall be available for public inspection at the place specified between the hours of 8:00 a.m. to 12:00 noon and 1:00 p.m. to 5:00 p.m. for a period of at least 15 days previous to the hearing.

(d) If 10 percent or more of the residents of the area in which the hospital is located speak a language other than English as their primary language, such written notice shall be in both English and the other language.

(e) Enclosures to the application shall include:

(1) Copy of Treasury Department and Franchise Tax Board certification of hospital's nonprofit status and exemption from federal and state income tax.

(2) The following information regarding existing property:

(A) Official map showing legal description and boundaries, and a written and pictorial description of the present property, including location and size of existing buildings.

(B) Date property was acquired.

(C) Capital investment of property.

(D) Appraised value of property.

(3) The following information regarding community patient service provided by present hospital:

(A) Licensed bed capacity.

(B) Brief description of types of service available.

(C) Admissions and patient days per year by place of residence.

(D) Outpatient clinic visits (if applicable) per year.

(E) Number of staff physicians and geographic areas from which physicians are drawn.

(F) Number of other employees in each job classification.

(G) Maximum number of employees on hospital property at one time.

(4) The following information regarding inadequacy of the present property and of alternatives to acquisition.

(A) Detailed description of the deficiencies of the present physical property in relation to the function it performs or proposes to perform.

(B) Detailed explanation of the ability or inability to perform such functions.

(C) Description of the effect of the deficiencies of the present property on the delivery of health care services in the community.

(D) Description of reasonably available alternatives to the project and the proposed location which might correct or alleviate the effect of such deficiencies and explanation for rejection of each alternative.

(E) Description of other property owned or held under long-term lease by the hospital within the county in which the proposed project is located, and explanation for the rejection of that property for construction of the proposed project.

(5) The following information regarding the property on which condemnation is desired:

(A) Official map showing legal description, boundaries and relationships to present property.

(B) Buildings and other improvements, and a detailed description of their current use.

(C) Detailed description of proposed use of property, including specific activities to be conducted on the site and projected completion date of any construction necessary should acquisition take place.

(D) Detailed description of efforts to acquire property without condemnation, including:

1. Duration of negotiations.

2. Individuals involved.

3. Amounts and dates of any offers or counteroffers made on sale price of property.

4. Available information on appraised value of property.

5. Property owner's reasons for refusal to sell if other than disagreement on price.

6. Description of projected plans for development or expansion by the hospital to be commenced within 10 years from application other than those presented in the application.

(6) Resolution of hospital board of directors including:

(A) Statement of board's opinion that public interest and necessity require acquisition of property.

(B) Statement of board's familiarity with content of application, including all attachments thereto.

(C) Board's authorization for application.

(7) Report of impact of proposed expansion upon delivery of health care services in community.

(8) Final Environmental Impact Report, or Negative Declaration pursuant to Section 15083 of Title 14 of the California Administrative Code.

(9) Affidavit of service of notice as required in (a) above.

NOTE: Authority cited: Sections 103, 446.2 and 1260, Health and Safety Code; and Section 11152, Government Code. Reference: Section 1260, Health and Safety Code.

HISTORY

1. Editorial correction of subsection (e)(2)(A) and new NOTE filed 2-23-83 (Register 83, No. 9).

§ 91019. New Facility Application for Certificate of Necessity.

(a) Pursuant to the provisions of Section 1260 of the Health and Safety Code, the right of eminent domain exercised by a newly formed nonprofit hospital applying to condemn property for the initial establishment of the facility shall be initiated by filing with the Department an application for a Certificate of Necessity on forms provided by the Department. A written notice of such application and of the intention to exercise the right of eminent domain shall be given to:

(1) All owners of real property affected.

(2) All reasonably discernible occupants of real property affected.

(3) All reasonably discernible occupants of property within 1000 yards of the real property affected.

(b) The written notice shall specify a location in the area within which the hospital is located where a copy of the application and supporting documents shall be maintained for public inspection.

(c) At least one copy of the application and supporting documents shall be available for public inspection at the place specified between the hours of 8:00 a.m. to 12:00 noon and 1:00 p.m. to 5:00 p.m. for a period of at least 15 days previous to the hearing.

(d) If 10 percent or more of the residents of the area in which the hospital is located speak a language other than English as their primary language, such written notice shall be in both English and the other language.

(e) Enclosures to the application shall include:

(1) Copy of the Treasury Department and Franchise Tax Board certification of hospital's nonprofit status and exemption from federal and state income tax.

(2) The following information regarding community patient service planned to be provided by the new hospital:

(A) Planned licensed bed capacity.

(B) Brief description of types of service planned.

(C) Expected admissions and patient days per year.

(D) Expected outpatient clinic visits (if applicable) per year.

(E) Expected number of staff physicians and geographic areas from which physicians will be drawn.

(F) Expected number of other employees in each job classification.

(G) Expected maximum number of employees on hospital property at one time.

(3) The following information regarding the property on which condemnation is desired:

(A) Official map showing legal description and boundaries.

(B) Buildings and improvements, and a detailed description of their current use.

(C) Detailed description of proposed use of property, including specific activities to be conducted on the site and projected completion date of any construction necessary should acquisition take place.

(D) Detailed description of efforts to acquire property without condemnation, including:

1. Duration of negotiations.

2. Individuals involved.

3. Amounts and dates of any offers or counteroffers made on sale price of property.

4. Available information on appraised value of property.

5. Property owner's reasons for refusal to sell if other than disagreement on price.

(4) Resolution of hospital board of directors including:

(A) Statement of board's opinion that public interest and necessity require acquisition of property.

(B) Statement of board's familiarity with content of application, including all attachments thereto.

(C) Board's authorization for application.

(5) Report of impact of proposed hospital upon delivery of health care services in the community.

(6) Final Environmental Impact Report, or Negative Declaration pursuant to Section 15083 of Title 14 of the California Administrative Code.

(7) Affidavit of service of notice as required in (a) above.

(8) Detailed description of deficiencies in the delivery of health care services in the community which the proposed project will correct or alleviate.

(9) Description of reasonably available alternatives to the project or the proposed location which might correct or alleviate such deficiencies and explanation for rejection of each alternative.

NOTE: Authority cited: Sections 103, 446.2 and 1260, Health and Safety Code; and Section 11152, Government Code. Reference: Section 1260, Health and Safety Code.

HISTORY

1. Editorial correction of subsection (d) and new NOTE filed 2-23-83 (Register 83, No. 9).

§ 91021. Public Hearing.

(a) A public hearing shall be conducted to determine the necessity of property acquisition.

(b) The Department shall provide 100 days prior written notice of the hearing to all interested parties and the local legislative body and city planning authority.

(c) The Department shall publish notice of the hearing in a newspaper of general circulation in the area within which the hospital is located on

three separate occasions within the 30 days immediately prior to the hearing.

(d) The area health planning agency or health systems agency shall make recommendations after public meeting of the area agency regarding the application to the hearing officer within 90 days of receipt of notice and such recommendations shall be entered into the record of the public hearing. A copy of the recommendations of the area agency to the hearing officer shall at the same time be submitted to the hospital.

(e) Upon receipt of the agency's recommendations prior to expiration of the 90 day maximum response period, the Department may reschedule the hearing for conduct at a date earlier than that originally specified. The Department shall provide 10 day prior written notice of any hearing so rescheduled to all parties set forth in (b) above.

(f) The hearing shall:

(1) Be conducted prior to certification of necessity pursuant to the provisions of Sections 91017, 91019 and 91023 of this chapter.

(2) Be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the California Government Code.

(3) Be conducted in the area within which the hospital is located.

(4) Take under consideration the impact of the proposed expansion upon the delivery of health care services in the community.

(5) Take into consideration the Final Environmental Impact Report.

(6) Assure the right of the nonprofit hospital, and all interested parties to the acquisition, to the following:

(A) Representation by counsel.

(B) Presentation of oral and written evidence.

(C) Confrontation and cross–examination of opposing witnesses.

(7) Be transcribed and the hearing record filed with the Department as a public document.

(g) The hearing officer shall file with the Department, within 10 days after the hearing, his findings, recommendations and proposed decision.

NOTE: Authority cited: Sections 103, 446.2 and 1260, Health and Safety Code; and Section 11152, Government Code. Reference: Section 1260, Health and Safety Code.

HISTORY

1. Editorial correction of subsection (e) and new NOTE filed 2–23–83 (Register 83, No. 9).

§ 91023. Action upon Application.

(a) The Director may certify, no later than 90 days after the public hearing required by Section 91021, that:

(1) The acquisition of the property sought to be condemned is necessary for the establishment, operation, or expansion of the nonprofit hospital.

(2) The public interest and necessity require the proposed project.

(3) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

(b) The Director shall decline to certify if the above is not established by substantial evidence in the record.

(c) In making such determination, the Director shall take into consideration and evaluate the following information:

(1) Application for Certificate of Necessity with attachments.

(2) Public hearing record.

(3) Recommendation of the area health planning agency or health systems agency.

(4) Hearing officer's findings, recommendations and proposed decision.

(d) Notwithstanding any other provision of these regulations, the Director shall decline to certify according to this Section unless and until a Certificate of Exemption or Certificate of Need, if required for the project by Section 437.10 of the Health and Safety Code, has been issued. However, the Director shall issue a letter of intent to certify according to this Section conditioned on the above requirement.

(e) The Director may reconsider, revoke or suspend a certificate, prior to entry of a final court judgment of condemnation, upon proof of false or incorrect application information. The Director may suspend the certificate pending a new hearing at any time prior to the commencement of the trial on the merits of the action for condemnation of the property at issue, on his own motion or on the motion of any interested party, based upon evidence presented to the Director under penalty of perjury which with reasonable diligence could not have been produced at the hearing and which reasonably leads the Director to determine that had this evidence been produced, his original determination would have more probably than not been a denial of certification. Where the certificate is suspended under this section, a new hearing pursuant to the provision of 91021 shall be held within 90 days. No new application shall be required.

(f) Any interested party may request the Director to reconsider the decision to certify or decline to certify pursuant to this Section, based on the materials listed in (c), by submitting written argument in support thereof.

NOTE: Authority cited: Sections 103, 446.2 and 1260, Health and Safety Code; and Section 11152, Government Code. Reference: Section 1260, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 2–23–83 (Register 83, No. 9).

Chapter 3. Freestanding Cardiac Catheterization Pilot Project

Article 1. General Provisions

§ 91100. Spatial Requirements.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.9, Health and Safety Code. Reference: Section 444.8, Health and Safety Code.

HISTORY

1. New chapter 3 (articles 1–6, sections 91100–91160, not consecutive) filed 3–3–86 as an emergency; effective upon filing (Register 86, No. 10). Emergency language shall remain in effect until 1–1–89 pursuant to Health and Safety Code section 444.9. For history of former chapter 3 (sections 91101–91177, not consecutive), see Registers 85, No. 21; and 77, No. 26.
2. Reprinting of chapter 3 (articles 1–6, sections 91100–91160, not consecutive) which was inadvertently deleted in Register 87, No. 2 and editorial correction of HISTORY NOTE Nos. 1 and 2 to reflect extended effective date of 3–3–86 emergency language to 1–1–89 pursuant to Health and Safety Code section 444.9 (Register 87, No. 39).
3. New section filed 10–22–90 as an emergency; operative 10–22–90 (Register 90, No. 47). Emergency language shall remain in effect until 1–1–94 pursuant to Health and Safety Code, section 444.9 (Register 90, No. 47).
4. Change without regulatory effect repealing chapter 3, article 1 (sections 91100–91116) and section filed 3–27–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).

§ 91102. Staffing Requirements.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.9, Health and Safety Code. Reference: Section 444.8, Health and Safety Code.

HISTORY

1. New chapter 3 (articles 1–6, sections 91100–91160, not consecutive) filed 3–3–86 as an emergency; effective upon filing (Register 86, No. 10). Emergency language shall remain in effect until 1–1–89 pursuant to Health and Safety Code section 444.9. For history of former Chapter 3 (sections 91101–91177, not consecutive), see Registers 85, No. 21; and 77, No. 26.
2. Reprinting of chapter 3 (articles 1–6, sections 91100–91160, not consecutive) which was inadvertently deleted in Register 87, No. 2 and editorial correction of HISTORY NOTE Nos. 1 and 2 to reflect extended effective date of 3–3–86 emergency language to 1–1–89 pursuant to Health and Safety Code section 444.9 (Register 87, No. 39).
3. New section filed 10–22–90 as an emergency; operative 10–22–90 (Register 90, No. 47). Emergency language shall remain in effect until 1–1–94 pursuant to Health and Safety Code, section 444.9 (Register 90, No. 47).
4. Change without regulatory effect repealing section filed 3–27–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).

§ 91104. Equipment Requirements.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.9, Health and Safety Code. Reference: Section 444.8, Health and Safety Code.

HISTORY

1. New chapter 3 (articles 1–6, sections 91100–91160, not consecutive) filed 3–3–86 as an emergency; effective upon filing (Register 86, No. 10). Emergency language shall remain in effect until 1–1–89 pursuant to Health and Safety

Code section 444.9. For history of former chapter 3 (sections 91101–91177, not consecutive), see Registers 85, No. 21; and 77, No. 26.

2. Reprinting of chapter 3 (articles 1–6, sections 91100–91160, not consecutive) which was inadvertently deleted in Register 87, No. 2 and editorial correction of HISTORY NOTE Nos. 1 and 2 to reflect extended effective date of 3–3–86 emergency language to 1–1–89 pursuant to Health and Safety Code section 444.9 (Register 87, No. 39).
3. New section filed 10–22–90 as an emergency; operative 10–22–90 (Register 90, No. 47). Emergency language shall remain in effect until 1–1–94 pursuant to Health and Safety Code, section 444.9 (Register 90, No. 47).
4. Change without regulatory effect repealing section filed 3–27–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).

§ 91106. Drug Requirements.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.9, Health and Safety Code. Reference: Section 444.8, Health and Safety Code.

HISTORY

1. New chapter 3 (articles 1–6, sections 91100–91160, not consecutive) filed 3–3–86 as an emergency; effective upon filing (Register 86, No. 10). Emergency language shall remain in effect until 1–1–89 pursuant to Health and Safety Code section 444.9. For history of former Chapter 3 (sections 91101–91177, not consecutive), see Registers 85, No. 21; and 77, No. 26.
2. Reprinting of chapter 3 (articles 1–6, sections 91100–91160, not consecutive) which was inadvertently deleted in Register 87, No. 2 and editorial correction of HISTORY NOTE Nos. 1 and 2 to reflect extended effective date of 3–3–86 emergency language to 1–1–89 pursuant to Health and Safety Code section 444.9 (Register 87, No. 39).
3. New section filed 10–22–90 as an emergency; operative 10–22–90 (Register 90, No. 47). Emergency language shall remain in effect until 1–1–94 pursuant to Health and Safety Code, section 444.9 (Register 90, No. 47).
4. Change without regulatory effect repealing section filed 3–27–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).

§ 91108. Emergency Protocol Requirements.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.9, Health and Safety Code. Reference: Section 444.8, Health and Safety Code.

HISTORY

1. New chapter 3 (articles 1–6, sections 91100–91160, not consecutive) filed 3–3–86 as an emergency; effective upon filing (Register 86, No. 10). Emergency language shall remain in effect until 1–1–89 pursuant to Health and Safety Code section 444.9. For history of former chapter 3 (sections 91101–91177, not consecutive), see Registers 85, No. 21; and 77, No. 26.
2. Reprinting of chapter 3 (articles 1–6, sections 91100–91160, not consecutive) which was inadvertently deleted in Register 87, No. 2 and editorial correction of HISTORY NOTE Nos. 1 and 2 to reflect extended effective date of 3–3–86 emergency language to 1–1–89 pursuant to Health and Safety Code section 444.9 (Register 87, No. 39).
3. New section filed 10–22–90 as an emergency; operative 10–22–90 (Register 90, No. 47). Emergency language shall remain in effect until 1–1–94 pursuant to Health and Safety Code, section 444.9 (Register 90, No. 47).
4. Change without regulatory effect repealing section filed 3–27–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).

§ 91110. Internal Patient Safety Assurance Procedures.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.9, Health and Safety Code. Reference: Section 444.8, Health and Safety Code.

HISTORY

1. New chapter 3 (articles 1–6, sections 91100–91160, not consecutive) filed 3–3–86 as an emergency; effective upon filing (Register 86, No. 10). Emergency language shall remain in effect until 1–1–89 pursuant to Health and Safety Code section 444.9. For history of former chapter 3 (sections 91101–91177, not consecutive), see Registers 85, No. 21; and 77, No. 26.
2. Reprinting of chapter 3 (articles 1–6, sections 91100–91160, not consecutive) which was inadvertently deleted in Register 87, No. 2 and editorial correction of HISTORY NOTE Nos. 1 and 2 to reflect extended effective date of 3–3–86 emergency language to 1–1–89 pursuant to Health and Safety Code section 444.9 (Register 87, No. 39).
3. New section filed 10–22–90 as an emergency; operative 10–22–90 (Register 90, No. 47). Emergency language shall remain in effect until 1–1–94 pursuant to Health and Safety Code, section 444.9 (Register 90, No. 47).
4. Change without regulatory effect repealing section filed 3–27–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).

§ 91112. Criteria for the Selection and Exclusion of Patients.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.9, Health and Safety Code. Reference: Section 444.8, Health and Safety Code.

HISTORY

1. New chapter 3 (articles 1–6, sections 91100–91160, not consecutive) filed 3–3–86 as an emergency; effective upon filing (Register 86, No. 10). Emergency language shall remain in effect until 1–1–89 pursuant to Health and Safety Code section 444.9. For history of former chapter 3 (sections 91101–91177, not consecutive), see Registers 85, No. 21; and 77, No. 26.
2. Reprinting of chapter 3 (articles 1–6, sections 91100–91160, not consecutive) which was inadvertently deleted in Register 87, No. 2 and editorial correction of HISTORY NOTE Nos. 1 and 2 to reflect extended effective date of 3–3–86 emergency language to 1–1–89 pursuant to Health and Safety Code section 444.9 (Register 87, No. 39).
3. New section filed 10–22–90 as an emergency; operative 10–22–90 (Register 90, No. 47). Emergency language shall remain in effect until 1–1–94 pursuant to Health and Safety Code, section 444.9 (Register 90, No. 47).
4. Change without regulatory effect repealing section filed 3–27–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).

§ 91114. Permitted Procedures and Minimums.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.9, Health and Safety Code. Reference: Section 444.8, Health and Safety Code.

HISTORY

1. New chapter 3 (articles 1–6, sections 91100–91160, not consecutive) filed 3–3–86 as an emergency; effective upon filing (Register 86, No. 10). Emergency language shall remain in effect until 1–1–89 pursuant to Health and Safety Code section 444.9. For history of former chapter 3 (sections 91101–91177, not consecutive), see Registers 85, No. 21; and 77, No. 26.
2. Reprinting of chapter 3 (articles 1–6, sections 91100–91160, not consecutive) which was inadvertently deleted in Register 87, No. 2 and editorial correction of HISTORY NOTE Nos. 1 and 2 to reflect extended effective date of 3–3–86 emergency language to 1–1–89 pursuant to Health and Safety Code section 444.9 (Register 87, No. 39).
3. New section filed 10–22–90 as an emergency; operative 10–22–90 (Register 90, No. 47). Emergency language shall remain in effect until 1–1–94 pursuant to Health and Safety Code, section 444.9 (Register 90, No. 47).
4. Change without regulatory effect repealing section filed 3–27–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).

§ 91116. Written Informed Consent.

NOTE: Authority cited: Section 11152, Government Code, Section 444.9, Health and Safety Code . Reference: Section 444.8, Health and Safety Code.

HISTORY

1. New chapter 3 (articles 1–6, sections 91100–91160, not consecutive) filed 3–3–86 as an emergency; effective upon filing (Register 86, No. 10). Emergency language shall remain in effect until 1–1–89 pursuant to Health and Safety Code section 444.9. For history of former chapter 3 (sections 91101–91177, not consecutive), see Registers 85, No. 21; and 77, No. 26.
2. Reprinting of chapter 3 (articles 1–6, sections 91100–91160, not consecutive) which was inadvertently deleted in Register 87, No. 2 and editorial correction of HISTORY NOTE Nos. 1 and 2 to reflect extended effective date of 3–3–86 emergency language to 1–1–89 pursuant to Health and Safety Code section 444.9 (Register 87, No. 39).
3. New section filed 10–22–90 as an emergency; operative 10–22–90 (Register 90, No. 47). Emergency language shall remain in effect until 1–1–94 pursuant to Health and Safety Code, section 444.9 (Register 90, No. 47).
4. Change without regulatory effect repealing section filed 3–27–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).

Article 2. Monitoring

§ 91120. Data and Patient Utilization.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.9, Health and Safety Code. Reference: Sections 444.5 and 444.7, Health and Safety Code.

HISTORY

1. New chapter 3 (articles 1–6, sections 91100–91160, not consecutive) filed 3–3–86 as an emergency; effective upon filing (Register 86, No. 10). Emergency language shall remain in effect until 1–1–89 pursuant to Health and Safety Code section 444.9. For history of former chapter 3 (sections 91101–91177, not consecutive), see Registers 85, No. 21; and 77, No. 26.
2. Reprinting of chapter 3 (articles 1–6, sections 91100–91160, not consecutive) which was inadvertently deleted in Register 87, No. 2 and editorial correction of HISTORY NOTE Nos. 1 and 2 to reflect extended effective date of 3–3–86 emergency language to 1–1–89 pursuant to Health and Safety Code section 444.9 (Register 87, No. 39).
3. New section filed 10–22–90 as an emergency; operative 10–22–90 (Register 90, No. 47). Emergency language shall remain in effect until 1–1–94 pursuant to Health and Safety Code, section 444.9 (Register 90, No. 47).
4. Change without regulatory effect repealing article 2 (sections 91120–91128) and section filed 3–27–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).

§ 91122. Access to Records and Facility Site.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.9, Health and Safety Code. Reference: Sections 444.5 and 444.7, Health and Safety Code.

HISTORY

1. New chapter 3 (articles 1–6, sections 91100–91160, not consecutive) filed 3–3–86 as an emergency; effective upon filing (Register 86, No. 10). Emergency language shall remain in effect until 1–1–89 pursuant to Health and Safety Code section 444.9. For history of former chapter 3 (sections 91101–91177, not consecutive), see Registers 85, No. 21; and 77, No. 26.
2. Reprinting of chapter 3 (articles 1–6, sections 91100–91160, not consecutive) which was inadvertently deleted in Register 87, No. 2 and editorial correction of HISTORY NOTE Nos. 1 and 2 to reflect extended effective date of 3–3–86 emergency language to 1–1–89 pursuant to Health and Safety Code section 444.9 (Register 87, No. 39).
3. New section filed 10–22–90 as an emergency; operative 10–22–90 (Register 90, No. 47). Emergency language shall remain in effect until 1–1–94 pursuant to Health and Safety Code, section 444.9 (Register 90, No. 47).
4. Change without regulatory effect repealing section filed 3–27–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).

§ 91124. Reasons for Suspending/Withdrawing Project Approval.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.9, Health and Safety Code. Reference: Section 444.5, Health and Safety Code.

HISTORY

1. New chapter 3 (articles 1–6, sections 91100–91160, not consecutive) filed 3–3–86 as an emergency; effective upon filing (Register 86, No. 10). Emergency language shall remain in effect until 1–1–89 pursuant to Health and Safety Code section 444.9. For history of former chapter 3 (sections 91101–91177, not consecutive), see Registers 85, No. 21; and 77, No. 26.
2. Reprinting of chapter 3 (articles 1–6, sections 91100–91160, not consecutive) which was inadvertently deleted in Register 87, No. 2 and editorial correction of HISTORY NOTE Nos. 1 and 2 to reflect extended effective date of 3–3–86 emergency language to 1–1–89 pursuant to Health and Safety Code section 444.9 (Register 87, No. 39).
3. New section filed 10–22–90 as an emergency; operative 10–22–90 (Register 90, No. 47). Emergency language shall remain in effect until 1–1–94 pursuant to Health and Safety Code, section 444.9 (Register 90, No. 47).
4. Change without regulatory effect repealing section filed 3–27–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).

§ 91126. Methods of Suspending/Withdrawing Project Approval.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.9, Health and Safety Code. Reference: Section 444.5, Health and Safety Code.

HISTORY

1. New chapter 3 (articles 1–6, sections 91100–91160, not consecutive) filed 3–3–86 as an emergency; effective upon filing (Register 86, No. 10). Emergency language shall remain in effect until 1–1–89 pursuant to Health and Safety Code section 444.9. For history of former chapter 3 (sections 91101–91177, not consecutive), see Registers 85, No. 21; and 77, No. 26.
2. Reprinting of chapter 3 (articles 1–6, sections 91100–91160, not consecutive) which was inadvertently deleted in Register 87, No. 2 and editorial correction of HISTORY NOTE Nos. 1 and 2 to reflect extended effective date of 3–3–86 emergency language to 1–1–89 pursuant to Health and Safety Code section 444.9 (Register 87, No. 39).
3. New section filed 10–22–90 as an emergency; operative 10–22–90 (Register 90, No. 47). Emergency language shall remain in effect until 1–1–94 pursuant to Health and Safety Code, section 444.9 (Register 90, No. 47).
4. Change without regulatory effect repealing section filed 3–27–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).

§ 91128. Hearing Procedure.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.9, Health and Safety Code. Reference: Section 444.5, Health and Safety Code.

HISTORY

1. New chapter 3 (articles 1–6, sections 91100–91160, not consecutive) filed 3–3–86 as an emergency; effective upon filing (Register 86, No. 10). Emergency language shall remain in effect until 1–1–89 pursuant to Health and Safety Code section 444.9. For history of former chapter 3 (sections 91101–91177, not consecutive), see Registers 85, No. 21; and 77, No. 26.
2. Reprinting of chapter 3 (articles 1–6, sections 91100–91160, not consecutive) which was inadvertently deleted in Register 87, No. 2 and editorial correction of HISTORY NOTE Nos. 1 and 2 to reflect extended effective date of 3–3–86 emergency language to 1–1–89 pursuant to Health and Safety Code section 444.9 (Register 87, No. 39).
3. New section filed 10–22–90 as an emergency; operative 10–22–90 (Register 90, No. 47). Emergency language shall remain in effect until 1–1–94 pursuant to Health and Safety Code, section 444.9 (Register 90, No. 47).
4. Change without regulatory effect repealing section filed 3–27–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).

Article 3. Fees

§ 91130. Fee.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.9, Health and Safety Code. Reference: Section 444.10, Health and Safety Code.

HISTORY

1. New chapter 3 (articles 1–6, sections 91100–91160, not consecutive) filed 3–3–86 as an emergency; effective upon filing (Register 86, No. 10). Emergency language shall remain in effect until 1–1–89 pursuant to Health and Safety Code section 444.9. For history of former chapter 3 (sections 91101–91177, not consecutive), see Registers 85, No. 21; and 77, No. 26.
2. Reprinting of chapter 3 (articles 1–6, sections 91100–91160, not consecutive) which was inadvertently deleted in Register 87, No. 2 and editorial correction of HISTORY NOTE Nos. 1 and 2 to reflect extended effective date of 3–3–86 emergency language to 1–1–89 pursuant to Health and Safety Code section 444.9 (Register 87, No. 39).
3. New section filed 10–22–90 as an emergency; operative 10–22–90 (Register 90, No. 47). Emergency language shall remain in effect until 1–1–94 pursuant to Health and Safety Code, section 444.9 (Register 90, No. 47).
4. Change without regulatory effect repealing article 3 (section 91130) and section filed 3–27–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).

Article 4. Operational Requirement

§ 91140. Operational Requirement.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.9, Health and Safety Code. Reference: Section 444.8, Health and Safety Code.

HISTORY

1. New chapter 3 (articles 1–6, sections 91100–91160, not consecutive) filed 3–3–86 as an emergency; effective upon filing (Register 86, No. 10). Emergency language shall remain in effect until 1–1–89 pursuant to Health and Safety Code section 444.9. For history of former chapter 3 (sections 91101–91177, not consecutive), see Registers 85, No. 21; and 77, No. 26.
2. Reprinting of chapter 3 (articles 1–6, sections 91100–91160, not consecutive) which was inadvertently deleted in Register 87, No. 2 and editorial correction of HISTORY NOTE Nos. 1 and 2 to reflect extended effective date of 3–3–86 emergency language to 1–1–89 pursuant to Health and Safety Code section 444.9 (Register 87, No. 39).
3. New section filed 10–22–90 as an emergency; operative 10–22–90 (Register 90, No. 47). Emergency language shall remain in effect until 1–1–94 pursuant to Health and Safety Code, section 444.9 (Register 90, No. 47).
4. Change without regulatory effect repealing article 4 (section 91140) and section filed 3–27–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).

Article 5. Compliance with Other Laws and Regulations

§ 91150. Compliance with Other Laws and Regulations.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.9, Health and Safety Code. Reference: Section 444.8, Health and Safety Code.

HISTORY

1. New chapter 3 (articles 1–6, sections 91100–91160, not consecutive) filed 3–3–86 as an emergency; effective upon filing (Register 86, No. 10). Emergency language shall remain in effect until 1–1–89 pursuant to Health and Safety Code section 444.9. For history of former chapter 3 (sections 91101–91177, not consecutive), see Registers 85, No. 21; and 77, No. 26.
2. Reprinting of chapter 3 (articles 1–6, sections 91100–91160, not consecutive) which was inadvertently deleted in Register 87, No. 2 and editorial correction of HISTORY NOTE Nos. 1 and 2 to reflect extended effective date of 3–3–86 emergency language to 1–1–89 pursuant to Health and Safety Code section 444.9 (Register 87, No. 39).
3. New section filed 10–22–90 as an emergency; operative 10–22–90 (Register 90, No. 47). Emergency language shall remain in effect until 1–1–94 pursuant to Health and Safety Code, section 444.9 (Register 90, No. 47).
4. Change without regulatory effect repealing article 5 (section 91150) and section filed 3–27–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).

Article 6. Definitions

§ 91160. Definitions.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.9, Health and Safety Code. Reference: Section 444.1, Health and Safety Code.

HISTORY

1. New chapter 3 (articles 1–6, sections 91100–91160, not consecutive) filed 3–3–86 as an emergency; effective upon filing (Register 86, No. 10). Emergency language shall remain in effect until 1–1–89 pursuant to Health and Safety Code section 444.9. For history of former chapter 3 (sections 91101–91177, not consecutive), see Registers 85, No. 21; and 77, No. 26.
2. Reprinting of chapter 3 (articles 1–6, sections 91100–91160, not consecutive) which was inadvertently deleted in Register 87, No. 2 and editorial correction of HISTORY NOTE Nos. 1 and 2 to reflect extended effective date of 3–3–86 emergency language to 1–1–89 pursuant to Health and Safety Code section 444.9 (Register 87, No. 39).
3. New section filed 10–22–90 as an emergency; operative 10–22–90 (Register 90, No. 47). Emergency language shall remain in effect until 1–1–94 pursuant to Health and Safety Code, section 444.9 (Register 90, No. 47).
4. Change without regulatory effect repealing article 6 (section 91160) and section filed 3–27–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).

Chapter 4. Fire Protection Loans

Article 1. Definitions

§ 91301. Basic Services.

"Basic services" means those services required to be provided by the facility in order to obtain and maintain a license and include, in such combinations as may be applicable to the type of facility to be operated, the following: personal care, protection, supervision, assistance, guidance or training, planned activities, food service and incidental medical and dental care.

NOTE: Authority cited: Sections 103, 446.2 and 446.3, Health and Safety Code; and Section 11152, Government Code. Reference: Section 13111.3, Health and Safety Code.

HISTORY

1. New Chapter 4 (Sections 91301–91343, not consecutive) filed 7–25–78; effective thirtieth day thereafter (Register 78, No. 30).
2. Editorial correction of NOTE filed 2–23–83 (Register 83, No. 9).

§ 91303. Construction Costs.

"Construction costs" means the cost of installation of automatic sprinkler systems or detectors responding to invisible products of combustion other than heat in accordance with the standards and regulations of the State Fire Marshal. Also included in such costs are architectural, engineering, consultation, plan check, permits, testing, inspection, title and recording costs and fees, and all other costs necessary or incidental to effect the construction project.

NOTE: Authority cited: Sections 103, 446.2 and 446.3, Health and Safety Code; and Section 11152, Government Code. Reference: Section 13111.3, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 2–23–83 (Register 83, No. 9).

§ 91305. Department.

"Department" means the Office of Statewide Health Planning and Development.

NOTE: Authority cited: Sections 103, 446.2 and 446.3, Health and Safety Code; and Section 11152, Government Code. Reference: Section 13111.3, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 2–23–83 (Register 83, No. 9).

§ 91307. Facility.

"Facility" means a building or portion thereof maintained and used by a children's institution providing basic services and licensed to operate as a "Group Home—Children," or a building or portion thereof maintained and used by an institution housing the aged and providing basic services and licensed to operate as a "Group Home—Adults."

NOTE: Authority cited: Sections 103, 446.2 and 446.3, Health and Safety Code; and Section 11152, Government Code. Reference: Section 13111.3, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 2–23–83 (Register 83, No. 9).

§ 91309. Housing for the Aged.

"Housing for the aged" means a facility which devotes at least 70 percent of its licensed capacity to housing persons who are either 65 years of age or older, or 50 years of age or older if such persons are blind or totally disabled, or who are any combination of the above classifications.

NOTE: Authority cited: Sections 103, 446.2 and 446.3, Health and Safety Code; and Section 11152, Government Code. Reference: Section 13111.3, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 2–23–83 (Register 83, No. 9).

§ 91311. Project Property.

"Project property" means the real property upon which the facility is located and upon which construction improvements are made.

NOTE: Authority cited: Sections 103, 446.2 and 446.3, Health and Safety Code; and Section 11152, Government Code. Reference: Section 13111.3, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 2–23–83 (Register 83, No. 9).

§ 91313. Trustee.

"Trustee" means a third–party to whom funds are legally committed in trust, under an express trust or escrow agreement between the borrower, trustee and the Department.

NOTE: Authority cited: Sections 103, 446.2 and 446.3, Health and Safety Code; and Section 11152, Government Code. Reference: Section 13111.3, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 2–23–83 (Register 83, No. 9).

Article 2. General Provisions

§ 91314. Advisory Loan Committee.

(a) The Advisory Loan Committee shall advise the Department regarding the borrower's financial capability to service the loan.

(b) The Committee shall be appointed by the Director and shall consist of seven members as follows:

(1) Four shall be appointed from outside State Government.

(2) Three shall be appointed from state departments. One such member shall be from the Division of Facilities Development of the Department.

(c) The members shall be highly qualified in the field of financial analysis of the operation of, capital outlay for, and construction of health facilities.

(d) The members shall file statements of economic interest in accordance with the provisions of the Department's conflict of interest code.

(e) No member may participate in any manner, including voting, in the decision of the Committee regarding a health facility in which such member has an economic interest.

(f) Members appointed from outside State Government shall be entitled to claim travel expenses equivalent to those of which state employees are entitled.

NOTE: Authority cited: Sections 103, 446.2 and 446.3, Health and Safety Code; and Section 11152, Government Code. Reference: Section 13111.3, Health and Safety Code.

HISTORY

1. Editorial correction of subsections (b)(2), (c) and new NOTE filed 2–23–83 (Register 83, No. 9).

§ 91315. General.

The Department shall, in accordance with the provisions of this chapter, grant loans to facilities for the purpose of installation of fire protection equipment therein. To qualify for a loan, facilities shall be in com-

pliance with all state laws and local ordinances relating to health, sanitation, building safety and licensing.

NOTE: Authority cited: Sections 103, 446.2 and 446.3, Health and Safety Code; and Section 11152, Government Code. Reference: Section 13111.3, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 2–23–83 (Register 83, No. 9).

§ 91317. Priority of Applications.

Priority shall be given to applications for loans for facilities in existence and licensed prior to the effective date of these regulations and in the order in which the initial stage of the applications are perfected by the applicant in accordance with the provisions of Section 91337 of these regulations. Loans shall be awarded by the Department according to their priority only to the extent funds remain available.

NOTE: Authority cited: Sections 103, 446.2 and 446.3, Health and Safety Code; and Section 11152, Government Code. Reference: Section 13111.3, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 2–23–83 (Register 83, No. 9).

§ 91319. Maximum Loan.

The maximum amount of the loan shall be no greater than that which is determined by the Department as necessary to effect compliance with Section 13113 of the Health and Safety Code. The actual amount of each loan shall be determined by the Department, in the exercise of its discretion, considering the most equitable means of achieving the purpose of the program within available funds, taking into account the sums needed by each applicant and those needs anticipated for all potential applicants.

NOTE: Authority cited: Sections 103, 446.2 and 446.3, Health and Safety Code; and Section 11152, Government Code. Reference: Section 13111.3, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 2–23–83 (Register 83, No. 9).

§ 91321. Length and Maturity of Loans.

(a) The repayment period for loans shall be limited to the lesser of the following:

(1) Thirty years from the beginning of amortization.

(2) Seventy–five percent of the Department's estimate of the economic life of the facility.

NOTE: Authority cited: Sections 103, 446.2 and 446.3, Health and Safety Code; and Section 11152, Government Code. Reference: Section 13111.3, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 2–23–83 (Register 83, No. 9).

§ 91323. Interest Rate.

HISTORY

1. Repealer filed 6–10–83; effective thirtieth day thereafter (Register 83, No. 24).

§ 91325. Repayment of the Loan.

(a) Unless otherwise approved by the Department, the loan shall be repayable in uniform total monthly installments of principal and interest.

(b) First repayment installment shall be due and payable as specifically set forth in the loan agreement, and in no case shall such date be more than 60 days subsequent to the issuance by the State of the total loan proceeds to the trustee.

(c) The State shall cause to be issued a Direct Reduction Loan Amortization Schedule based upon monthly installment payments and showing:

(1) Total amount of the loan.

(2) Term of the loan.

(3) The interest rate.

(4) Total monthly installment payment.

(5) Breakdown of monthly interest and principal.

(6) Balance of loan.

(d) An installment payment received by the State more than 15 days after due date shall be deemed to be delinquent. Upon such delinquency a late payment charge of 10 percent of the installment payment may be charged to the borrower. The decision on the late charge will be made by the Department after a review of the circumstances involved.

(e) The borrower may at any time make additional installment payments in advance or pay the whole outstanding balance of the loan without prepayment penalty.

NOTE: Authority cited: Sections 103, 446.2 and 446.3, Health and Safety Code; and Section 11152, Government Code. Reference: Section 13111.3, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 2–23–83 (Register 83, No. 9).

§ 91327. Security for the Loan.

(a) Loans may be secured by a first trust deed on the real property of the facility upon which the work of construction is performed, or such other alternative security as the Department may find necessary to protect the financial interests of the State provided that such other security agreed upon is sufficient to afford protection of the Department's investment.

(b) The Department shall not accept alternative security in lieu of a first trust deed on the real property of the facility unless:

(1) The borrower applies to the Department for consideration of alternative security arrangements;

(2) The borrower substantiates in writing to the Department that if the Department requires a first trust deed on the project property of the facility, the project would be economically unfeasible; and

(3) The Department determines and substantiates that the project is economically unfeasible without a waiver of the requirement for a first trust deed on the project property of the facility.

(c) The beneficiary of the security shall be the Department.

NOTE: Authority cited: Sections 103, 446.2 and 446.3, Health and Safety Code; and Section 11152, Government Code. Reference: Section 13111.3, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 2–23–83 (Register 83, No. 9).

§ 91329. Disbursement of Loan Proceeds.

(a) The proceeds of the loan shall be used exclusively for the construction as approved by the Department.

(b) Upon issuance of the loan by the State, the proceeds of the loan shall be deposited with a trustee acceptable to the State who shall operate under an express trust agreement.

(c) Subsequent to execution of the loan agreement and other correlative documents, the State shall forward the whole amount of the loan to the trustee to be deposited in a special construction account from which all disbursements shall be made.

(d) The trustee may invest proceeds of the loan in short–term insured securities so long as sufficient funds are held available for timely payment of valid claims. Income from such investment shall, after deducting agreed charges and costs in favor of the trustee, insure to the benefit of the trust loan corpus.

(e) Prior to valid claims being paid from the construction account and upon request by the borrower, a Department representative shall examine the borrower's disbursement records and shall certify, on forms furnished by the Department with respect to such payment to be made, that all work, services and materials are incorporated in the project and are in compliance with agreements, and regulations and statutes determined applicable by the Department.

NOTE: Authority cited: Sections 103, 446.2 and 446.3, Health and Safety Code; and Section 11152, Government Code. Reference: Section 13111.3, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 2–23–83 (Register 83, No. 9).

§ 91331. Regulations and Code.

Any loan agreement entered into pursuant to the Health and Safety Code Section 13111.3 and these regulations shall be deemed to include, as part of its terms and conditions, all of the provisions of Section 13111.3 of the Health and Safety Code and of this chapter.

NOTE: Authority cited: Sections 103, 446.2 and 446.3, Health and Safety Code; and Section 11152, Government Code. Reference: Section 13111.3, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 2–23–83 (Register 83, No. 9).

§ 91333. Events of Default.

(a) The Department may declare a default upon the following conditions:

(1) Failure by the borrower to comply with all the terms and conditions of the Loan Agreement, the Note, and such other security instruments executed by the borrower.

(2) The borrower's noncompliance with laws and regulations pertaining to the operation and condition of the facility.

(3) Failure of the borrower to maintain sufficient funds in a trust account to prosecute the work of the improvements.

(4) The borrower's abandonment of the work, property or operation of the facility.

(5) Failure of the borrower to tender an installment payment for a period greater than 30 days from due date.

(6) The borrower's change of license category without the written consent of the Department, conveyance of title to the property, transfer of possession or purported change of obligor on the loan without express approval of the Department.

(7) Failure of the facility, during the term of the loan, to maintain in effect its license in the category of facility under which the loan was issued.

(8) Where the borrower files for relief under any chapter of the Federal Bankruptcy Act or where an action is filed against the borrower under any chapter of the Federal Bankruptcy Act.

NOTE: Authority cited: Sections 103, 446.2 and 446.3, Health and Safety Code; and Section 11152, Government Code. Reference: Section 13111.3, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 2–23–83 (Register 83, No. 9).

§ 91335. Remedies.

(a) Upon declaration of default by the Department:

(1) All remaining funds in the trust construction improvement account shall revert to the State.

(2) The total loan balance with accrued interest shall be immediately due and payable.

(b) The Department shall have the right to initiate legal proceedings against all obligors and sureties on the loan, and to foreclose upon any security given therefor.

NOTE: Authority cited: Sections 103, 446.2 and 446.3, Health and Safety Code; and Section 11152, Government Code. Reference: Section 13111.3, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 2–23–83 (Register 83, No. 9).

§ 91337. Applications, Procedures and Approvals.

(a) Before a loan from the Department may be obtained, the facility shall complete and submit an application to the Department.

(b) Applications shall be processed by the Department in three stages, as follows:

(1) The initial stage material shall be submitted by the applicant to determine eligibility of the proposed project and shall consist of the following:

(A) Department form LIC–1000, Part A, showing project description and costs, applicant's property interest and loan amount.

(B) Department form LIC–1001, Part B, showing financial assets and liabilities, and projected income and expenses.

(C) Department form LIC–1002, Part C, showing nonprofit status and resolution to borrow.

The submission by the applicant of complete and accurate initial stage documentation shall constitute perfection of the application for purposes of scheduling priority of the application.

Subsequent to affirmative action by loan committee, applicant will be sent a loan commitment.

(2) The second stage material in four copies shall be submitted no later than three weeks subsequent to the Department's mailing of the loan commitment. Failure to submit complete and accurate second stage documentation within the time allotted shall subject the application to loss of priority. The second stage material shall consist of the following:

(A) Architect or engineer's agreement, if required by the Department.

(B) Plans and specifications for the work approved by the Office of the State Fire Marshal.

(C) Valid contractor's bid offer or an executed contract for the work. Verification of competitive bidding shall be required.

(D) Form of contractor's performance and payment bond.

(E) Completed state form showing a detailed estimate of costs of all items for which the loan proceeds will be used.

(F) Trustee agreement signed by the parties.

(G) Loan agreement signed and acknowledged by the applicant.

(H) Security instrument signed and acknowledged by the applicant.

(I) Executed promissory note.

(3) The final stage of the application consists of the following:

(A) Prior to the closing, the applicant shall submit substantiation of the following insurance coverage for work in progress or work to be constructed:

1. Statutory workmen's compensation and employer's liability.
2. Bodily injury and property damage liability.
3. Fire and extended coverage for all work performed under the contract and other improvements on the site against loss or damage to the minimum extent of replacement value covered by the standard coverage insurance endorsement. The policies shall include a standard mortgage clause making loss payable to the State of California as its interests may appear.

(B) Prior to the closing, the contractor performing the work shall provide both performance and payment bonds each in the amount of 100 percent of the penal sum of the contract.

(C) The closing of the loan shall take place at such time and place as agreed upon by all parties consistent with the completion of all necessary document reviews and financial arrangements.

(D) Actions taken at the closing are to effect a single transaction and all documents to be executed and delivered are to be consistent with the completion of all necessary document reviews and financial arrangements.

(E) All real property security documents are to be recorded with the county recorder in the county in which the secured property is located prior to closing.

NOTE: Authority cited: Sections 103, 446.2 and 446.3, Health and Safety Code; and Section 11152, Government Code. Reference: Section 13111.3, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 2–23–83 (Register 83, No. 9).

§ 91339. Maintenance of Records.

Commencing with the start of construction, the borrower shall maintain detailed records, upon forms approved by the Department, of all expenditures made relating to the project construction.

NOTE: Authority cited: Sections 103, 446.2 and 446.3, Health and Safety Code; and Section 11152, Government Code. Reference: Section 13111.3, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 2–23–83 (Register 83, No. 9).

§ 91341. Audit.

(a) Upon completion of the project, the Department shall cause an audit to be made of all project–related expenditure records of the borrower.

(b) Such audited records shall be maintained by the borrower for the term of the loan.

NOTE: Authority cited: Sections 103, 446.2 and 446.3, Health and Safety Code; and Section 11152, Government Code. Reference: Section 13111.3, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 2–23–83 (Register 83, No. 9).

§ 91343. Insurance.

(a) The borrower, upon completion of any improvements upon the project property made pursuant to a loan granted under these regulations, shall maintain fire insurance with standard extended coverage endorsement on all improvements on the property, equal to the current market value of such improvements, for the term of the loan.

(b) Policies shall contain the standard lender's benefit clauses and shall name the State of California as joint beneficiary. Copies of periodic renewal endorsement certificates shall be provided to the Department.

NOTE: Authority cited: Sections 103, 446.2 and 446.3, Health and Safety Code; and Section 11152, Government Code. Reference: Section 13111.3, Health and Safety Code.

HISTORY

1. Editorial correction adding NOTE filed 2–23–83 (Register 83, No. 9).

Chapter 5. Health Facility Construction Loan Insurance

Article 1. Definitions

§ 91401. Advisory Loan Committee.

"Advisory loan committee" means that committee appointed by the Director to advise the Office regarding the borrower's financial capability to service the loan.

NOTE: Authority cited: Sections 436.3 and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Section 436.3, Health and Safety Code.

HISTORY

1. New Chapter 5 (Articles 1–7, Sections 91401–91547, not consecutive) filed 6–13–79; effective thirtieth day thereafter (Register 79, No. 25).
2. Amendment of NOTE (Sections 91401–91547, not consecutive) filed 6–21–79 as procedural and organizational; designated effective 7–13–79 (Register 79, No. 25).
3. Amendment of NOTE filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91403. Affirmative Action.

NOTE: Authority cited: Sections 436.3 and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Section 436.3, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).
2. Repealer filed 3–7–96; operative 3–7–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 10).

§ 91405. Applicant.

"Applicant" means a political subdivision or a nonprofit corporation which intends to secure a loan for the construction of a health facility or has secured a loan for the construction of a health facility and has applied for loan insurance under the Health Facility Construction Loan Insurance Law (Section 436 et seq. of the Health and Safety Code and Section 32127.2 of the Health and Safety Code: See also Article XVI, Section 4 of the Constitution of California).

NOTE: Authority cited: Sections 436.3 and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 436.3 and 436.9, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91407. Bondholder.

NOTE: Authority cited: Sections 436.2 and 436.3, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91409. Borrower.

NOTE: Authority cited: Sections 436.2 and 436.3, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91411. California Health Facilities Construction Loan Insurance Program—State Plan.

NOTE: Authority cited: Sections 436.3 and 436.4, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91413. Contract of Insurance.

"Contract of insurance" means a document executed by the borrower and the Office providing for loan insurance under Section 436 et seq. of the Health and Safety Code and Section 32127.2 of the Health and Safety Code. See also Article XVI, Section 4 of the Constitution of California.

NOTE: Authority cited: Sections 436.3 and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 436.3 and 32127.2, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91415. Construction.

NOTE: Authority cited: Sections 436.2 and 436.3, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91417. Council.

NOTE: Authority cited: Sections 436.2 and 436.3, Health and Safety Code. Reference Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91419. Days.

"Days" means calendar days unless otherwise specified.

NOTE: Authority cited: Sections 436.3 and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Section 436.3, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91421. Debenture.

NOTE: Authority cited: Sections 436.2 and 436.3, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91423. Office.

NOTE: Authority cited: Sections 436.2 and 436.3, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91425. Director.

NOTE: Authority cited: Section 436.3, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91427. Fund.

NOTE: Authority cited: Sections 436.2 and 436.3, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91429. Health Facility.

NOTE: Authority cited: Sections 436.2 and 436.3, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91431. Health Facility Construction Loan Insurance Law.

"Health Facility Construction Loan Insurance Law" means Section 436, et seq., of the Health and Safety Code and Section 32127.2 of the Health and Safety Code.

NOTE: Authority cited: Sections 436.3 and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Section 436.3, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91433. Lender.

NOTE: Authority cited: Sections 436.2 and 436.3, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91435. Loan.

NOTE: Authority cited: Sections 436.2 and 436.3, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91437. Loan Insurance.

"Loan insurance" means the insurance of a loan by the Office pursuant to the California Health Facility Construction Loan Insurance Law.

NOTE: Authority cited: Sections 436.3 and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference Section 436.3, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91439. Maturity Date.

NOTE: Authority cited: Sections 436.2 and 436.3, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91441. Federal Program Definitions.

NOTE: Authority cited: Section 436.3, Health and Safety Code. Reference: Section 14000, et seq., Welfare and Institutions Code.

HISTORY

1. Repealer filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91443. Mortgage.

NOTE: Authority cited: Sections 436.2 and 436.3, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91445. Mortgagee.

NOTE: Authority cited: Sections 436.2 and 436.3, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91447. Mortgagor.

NOTE: Authority cited: Sections 436.2 and 436.3, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91449. Nonprofit Corporation.

NOTE: Authority cited: Sections 436.2 and 436.3, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91451. Political Subdivision.

NOTE: Authority cited: Sections 436.2 and 436.3, Health and Safety Code. Reference: Section 32127.2, Health and Safety Code.

HISTORY

1. Repealer filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91453. Project.

"Project" means a plan for and the construction, improvement, expansion, acquisition, or refinancing of a health facility.

NOTE: Authority cited: Sections 436.3 and 446.2, Health and Safety Code, and Section 11152, Government Code. Reference: Sections 436.3, 436.8 and 436.9, Health and Safety Code.

HISTORY

1. Amendment filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91455. Project Property.

NOTE: Authority cited: Sections 436.2 and 436.3, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91457. Public Health Facility.

NOTE: Authority cited: Sections 436.2 and 436.3, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91459. Statewide Health Facilities and Services Plan.

"Statewide Health Facilities and Services Plan" means the plan which reflects statewide needs and desirability for health facility projects and services.

NOTE: Authority cited: Sections 436.3 and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 436.3 and 437.7, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91461. Title.

"Title" means clear title free of all liens and encumbrances with the exception of utility easements and governmental assessments of records and other exceptions approved by the Director.

NOTE: Authority cited: Sections 436.3 and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Section 436.3, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

Article 2. General Provisions

§ 91462. Prohibition Against Transactions with a Conflict of Interest.

No present or former officer, director, member, employee or relative of any officer, director, member or employee of the borrower or an affiliate of the borrower or incorporator shall receive any benefit, either directly or indirectly, as a result of the application for, or insurance of, a loan insured by the office, other than the continuation of salaries and employee benefits.

NOTE: Authority cited: Sections 129015 and 127020, Health and Safety Code. Reference: Sections 5231 and 5233, Corporations Code; Sections 1090 and 1091.5, Government Code; and Section 129015, Health and Safety Code.

HISTORY

1. New section filed 6–26–96; operative 7–26–96 (Register 96, No. 26).

§ 91463. Types of Loans Eligible for Insurance.

NOTE: Authority cited: Sections 436.3 and 436.8, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91465. Security for Loans.

(a) The Office maintains discretion to require additional security in each individual case and to require funded depreciation.

(b) No security agreements shall be entered into by the borrower affecting the project property without prior approval by the Office.

(c) Loans to city, county, city and county or hospital district may be evidenced by a duly authorized bond issue. The Office may require additional security of the city, county, city and county or hospital district including a mortgage, trust indenture or lien on the project property. Where the borrower is a joint powers entity, the loan shall be secured by the first mortgage or first lien on the project property. The Office maintains discretion to require additional security in each individual case.

NOTE: Authority cited: Sections 436.3 and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 436.3 and 436.8, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91467. Determination of Need for Project.

NOTE: Authority cited: Sections 436.3, 436.4 and 436.45, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91469. Applications, Procedures and Approvals.

(a) The applicant shall complete and submit an application to the Office.

(b) Applications shall be processed by the Office in three stages as follows:

(1) The initial stage material shall be submitted by the applicant to determine eligibility of the proposed projects as follows:

(A) Office Form No. OSH–FD–136 showing project costs and health facility category.

(B) Office Form No. OSH–FD–137 showing financial assets of applicants.

(C) Office Form No. OSH–FD–135 showing the applicant's interest in the site.

(D) A brief narrative outlining the scope of the project and services to be rendered upon completion of the project.

(E) Drawings, small scale or schematics which include a minimum of the following:

1. Map of community showing location of site.

2. Plot plan showing property lines and existing and proposed new structures positioned on the site.

3. Floor plans of new and remodeled structures.

4. Brief construction materials outline specification.

(2) If the initial stage material shows that the proposed project is preliminarily eligible for loan insurance, the Office shall notify the applicant that the initial stage material submitted is sufficient.

(3) The second stage material shall be submitted by the applicant subsequent to the Office's notification as to preliminary eligibility. The applicant may submit the second stage material with the initial stage material. The second stage materials shall be processed as follows:

(A) A standard comprehensive health facility feasibility study shall be submitted containing at least the following:

1. Detailed program narrative describing the need for the health services to be provided, scope of such service, existing services, educational or research programs, individual departmental functions, staffing requirements, working relations and coordinating services with other facilities in the community.

2. Detailed financial statements showing audited annual balance sheet, income and expenses, source and application of funds for preceding three years, and income and expense budget projected for succeeding five years. New facilities need only submit the projected budget. Depreciation schedule shall be included.

3. An opinion of legal counsel regarding the nonprofit status of the applicant and the corporate relationships involving the applicant.

4. Completed Office Form No. OSH–FD–133 showing corporate relationships and nonprofit status.

5. List of consultants preparing feasibility study.

(B) Following the analysis of initial and second stage materials by the Office and their approval thereof, the initial and second stage materials will be formally presented to the Advisory Loan Committee for its recommendation regarding the applicant's financial capability to service the loan.

(C) Upon review of the initial and second stage materials by the Advisory Loan Committee and receipt of their written recommendation regarding the application, the materials shall be reviewed by the Advisory Health Council upon receipt in writing of a letter from the Office informing it that an application for loan insurance is ready for closing (the third stage). Upon receipt of such letter the Council shall give notice to the applicant in writing of the date, place and time of a hearing on the application.

1. The Council shall, after public review, advise the Director on insuring the loan.

(D) The application shall then be reviewed by the Office.

(E) Upon the Office's review of the initial and second stage materials and approval thereof, it may:

1. Issue a preliminary conditional commitment letter for insurance valid for a term not to exceed 12 months and renewable for a term not to exceed 12 months where the Office has determined that project need exists, that the project is eligible for loan insurance and that the project is financially feasible. A commitment shall not be renewed more than once. Renewals may be issued only upon request in writing by the applicant and only upon a showing of good cause as determined by the Office. Expiration of the term of the commitment, applicant's Certificate of Exemption or Certificate of Need shall void the application and the commitment.

(F) The preliminary conditional commitment letter shall contain at least the following information:

1. Type, term and amount of loan for which the commitment was issued.
2. Term of the commitment.
3. Date as of which need for the project was established.
4. Timetable for completion of the project.

(G) The decision to grant the loan insurance is within the discretion of the Director. Showing need for the project or meeting the eligibility requirements for loan insurance or establishing financial feasibility of the project does not create any entitlement to loan insurance.

(4) The final stage of the application consists of preparing and scheduling the loan closing. The applicant shall submit to the Office for review two loan closing document packages containing completed copies of all state forms and legal documents necessary to effect the closing of the loan. No later than one week prior t date of loan closing, the applicant shall submit to the Office two copies of the loan closing document package as revised.

(c) Before closing of the loan, the borrower shall have obtained such architectural, engineering, geologic, licensing and environmental approvals as may be required for the specific type of health facility covered by the project.

(d) The health facility shall be designed, the plans and specifications shall be reviewed and the work shall be constructed in accordance with all applicable laws and regulations.

(e) Prior to the closing of the loan, the borrower shall submit evidence that the following insurance coverage is in effect for work in progress or work to be performed or a commitment to provide such before construction begins:

(1) Statutory worker's compensation and employer's liability.

(2) Bodily injury and property damage liability.

(3) Fire and extended coverage for all work performed under contract and other improvements on the site against loss or damage to the extent of replacement value covered by the standard extended coverage insurance endorsement. The policies shall include a standard mortgage clause making loss payable to the mortgagee and the State of California as their interests may appear.

(4) The contractor performing the work shall provide both performance and payment bonds in the amount of 100 percent of the total sum of the contract. A combined performance and payment bond may be provided.

(f) Prior to closing the architect shall have submitted preliminary plans for the entire project.

(g) Prior to closing the borrower shall have a fixed limit of construction cost for the entire project, based on an outline of the scope of the project or approved plans and specifications, or; a contract to complete a project with a guaranteed maximum price, which fully indicates the entire scope of the project.

(h) No construction will be commenced on any increment of a project until at least that increment of the project has received final approval of the plans and specifications by the Office.

NOTE: Authority cited: Sections 436.3 and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 436.3 and 436.9, Health and Safety Code.

HISTORY

1. Amendment of subsection (b) filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).
2. Repealer of subsection (i) filed 3–7–96; operative 3–7–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 10).

§ 91471. Disbursement of Loan Proceeds.

(a) Upon issuance of insurance of the loan by the State, the proceeds of the loan and other funds as required by the Office shall be deposited with a trustee pursuant to a written agreement which shall contain such terms and conditions as approved by the Office.

(b) The trustee shall, with the Office's approval, disburse such deposited funds in the following order or priority:

(1) Payment of existing liens necessary to effect clear title.

(2) Deposits into special funds or accounts, as required by the Office or the lender under the mortgage or deed of trust.

(3) Payment of valid existing claims, including title and recording fees, legal fees, financing charges, consultant fees, architectural and engineering fees but excluding construction claims set forth in (4) below.

(4) Payment of valid existing claims for the construction, equipment and other charges connected with construction, which shall be paid from a construction account established for that purpose.

(c) Prior to release of funds for payment of claims pursuant to paragraph (b)(4) above, the trustee shall have received from the Office:

(1) A certification that the work, services, and materials for which payment is claimed have been incorporated into the project.

(2) Office approval of the proposed release of funds. The amount of insured loan proceeds released for payment of each claim shall not exceed that percentage of such claim that the total of the insured loan proceeds is to the total project cost. An exception may be made for good cause when the borrower can clearly demonstrate that total funds for project completion will be available on a timely basis.

NOTE: Authority cited: Sections 436.3, 436.5, and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 436.3 and 436.5, Health and Safety Code.

HISTORY

1. Amendment filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91473. Certification and Inspection Fees.

The Office may consider reduction of the certification and inspection fee when construction is completed prior to insuring the loan and when existing debt is retired under the insured loan. When the entire project consists of refinancing only, there will not be a certification and inspection fee.

NOTE: Authority cited: Sections 436.3 and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 436.3 and 436.6, Health and Safety Code.

HISTORY

1. Amendment filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91475. Application Fee.

NOTE: Authority cited: Sections 436.3 and 436.9, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91477. Insurance Premiums.

(a) The premium rate charged for the insurance of loans by the Office paid by all borrowers shall be three percent (3%) of the total amount of principal and interest payable over the term of the loan, unless the borrower requests and qualifies for a lower premium rate under subsection (b) below.

(b) Borrowers that choose to obtain and do obtain a credit rating of CCC or higher from one of the three rating agencies listed below shall qualify for the discounted premium rate corresponding to the rating. If the Office determines that it is in its best interest, it may allow the use of a credit assessment, credit opinion or equivalent from one of the three rating agencies listed below, using the rating assigned therein instead of the credit rating for this purpose. The borrower shall direct the credit rating agency to send the rating (or credit assessment, opinion, or equivalent) to the Office, with a copy to the borrower.

Rating Agencies			*Discounted*
Standard & Poor's	*Moody's*	*Fitch*	*Premium*
AAA	Aaa	AAA	—
AA+	Aa1	AA+	0.80%
AA	Aa2	AA	0.85%
AA–	Aa3	AA–	0.90%
A+	A1	A+	1.15%
A	A2	A	1.20%
A–	A3	A–	1.25%
BBB+	Baa1	BBB+	1.80%
BBB	Baa2	BBB	1.85%
BBB–	Baa3	BBB–	1.90%
Below Investment Grade:			
BB+	Ba1	BB+	2.65%
BB	Ba2	BB	2.70%
BB–	Ba3	BB–	2.75%
B+	B1	B+	2.80%
B	B2	B	2.85%
B–	B3	B–	2.90%
CCC	CCC	CCC	2.95%
Lower than CCC			3.00%

(c) The rating will be used only to determine what premium rate the Office will charge that borrower, if the Office decides to insure a loan to that borrower. The fact that a borrower is able to obtain a CCC rating or above does not entitle that borrower to insurance.

(d) The Office has determined the use of the procedures set forth in (b) above constitute a system for assessing the relative financial risk of a borrower in compliance with Health and Safety Code section 129051.

NOTE: Authority cited: Sections 127010 and 129015, Health and Safety Code; and Section 11152, Government Code. Reference: Section 129040, Health and Safety Code.

HISTORY

1. Amendment filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).
2. Repealer and new section filed 3–20–2001; operative 3–20–2001. Amendments filed without review by OAL pursuant to the exemption for regulations which establish or fix rates, prices, or tariffs (Government Code section 11340.9(g)) (Register 2001, No. 12).

§ 91479. Opinion of Legal Counsel.

(a) At the time the loan is closed or at the initial loan closing if the loan is in stages, the borrower shall furnish to the Office the opinion of legal counsel with respect to the following:

(1) The borrower's legal interest in the property.

(2) The borrower's authority to finance, construct and maintain the project, to issue any proposed obligation and to pledge or mortgage the assets and project property offered to secure the loan for which insurance is sought.

NOTE: Authority cited: Sections 436.3 and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 436.3 and 436.8, Health and Safety Code.

HISTORY

1. Amendment filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91481. Closing of the Loan.

(a) The closing of the loan shall take place at such time and place as agreed upon by all parties consistent with the completion of all necessary document reviews and financial arrangements.

(b) Actions taken at the closing shall constitute a single transaction and all documents to be executed and delivered or monies to be delivered shall be considered as having been delivered simultaneously.

(c) All real property security documents shall be recorded prior to closing with the county recorder in the county in which the secured property is located.

(d) An executed American Land Title Association (ALTA) title policy, written in an amount not less than the principal amount of the loan to be insured, with the State designated as an additional insured, shall be delivered to the State. After delivery of such title policy, the Office shall deliver to the borrower the contract of insurance executed by all parties.

NOTE: Authority cited: Sections 436.3 and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 436.3 and 436.8, Health and Safety Code.

HISTORY

1. Amendment of subsection (e) filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).
2. Order of Repeal of subsection (e) filed 6–3–85 by OAL pursuant to Government Code Section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).

§ 91483. Bidding Procedures.

(a) (Reserved)

(b) Construction contract awards shall be made to the lowest responsible bidder, based upon competitive lump sum bids for the entire project, or bidding in increments as approved by the Office.

(c) Details of the method of bidding and contracting shall be submitted to the Office for approval prior to the execution of the construction contract.

(d) The method of bidding and contracting selected shall provide a fixed maximum cost of the construction work prior to closing of the loan.

NOTE: Authority cited: Sections 436.3 and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Section 436.3, Health and Safety Code.

HISTORY

1. Amendment of subsection (b) filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).
2. Order of Repeal of subsection (a) filed 6–3–85 by OAL pursuant to Government Code Section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).

§ 91485. Affirmative Action.

NOTE: Authority cited: Sections 436.3 and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Section 436.3, Health and Safety Code.

HISTORY

1. Amendment of subsection (c) filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).
2. Repealer filed 3–7–96; operative 3–7–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 10).

§ 91487. Maintenance of Records.

During the period of construction and for a minimum of three years thereafter, the borrower shall maintain detailed records on forms approved by the Office of all expenditures made relating to completion of

the project. No insured loan proceeds will be advanced until documented evidence of work performed is provided with a completed copy of Office Form OSH–FD–134.

NOTE: Authority cited: Sections 436.3 and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Section 436.3, Health and Safety Code.

HISTORY

1. Amendment filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91489. Equipment.

(a) The borrower shall fully equip the facility and shall maintain the equipment so as to provide for continuous efficient operation of the facility and adequate service to the patients. Equipment included in the contract shall not be acquired by installment contract or lease.

(b) The borrower shall submit for review and approval a detailed list, description and estimated cost of all equipment to be installed or placed in the facility. Accompanying such list, description and estimated cost shall be Certificates of Need or Exemption where required.

(c) Where equipment, not included in the project is acquired by the facility at a date subsequent to the closing by installment contract or lease, such equipment contract must be approved by the Office and shall not prohibit assignment of the contract in the event of default or insolvency of the original purchaser.

NOTE: Authority cited: Sections 436.3 and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Section 436.3, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).
2. Order of Repeal of subsection (d) filed 6–3–85 by OAL pursuant to Government Code Section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).

§ 91491. Operation upon Completion of Facility.

The facility shall be operated or licensed only in the category of facility stated in the application for loan insurance, except that a facility may seek to operate as and be licensed under another category of facility upon approval of the State and acquisition of a Certificate of Need permitting such change.

NOTE: Authority cited: Sections 436.3 and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Section 436.3, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91493. Insurance Coverage.

(a) The borrower shall upon completion of construction of any improvement upon the property continue to maintain for the term of the loan fire insurance with standard extended coverage endorsement on all improvements on the property equal to the current market value of such improvements.

(b) The insurance policy shall contain the standard mortgagee benefit clauses and shall name the State of California as additional insured.

NOTE: Authority cited: Sections 436.3 and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 436.3 and 436.8, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51.)

§ 91495. Final Audit.

Subsequent to payment and satisfaction of all claims regarding the completion of construction of the facility, an audit shall be made and copies of such audit shall be forwarded to the Office by the borrower. This audit shall be made by an independent auditing agency, acceptable to the Office within six months after project completion.

NOTE: Authority cited: Sections 436.3 and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Section 436.3, Health ad Safety Code.

HISTORY

1. Amendment of NOTE filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91497. Financial Statements.

The borrower shall submit annually to the Office for the term of the insured loan an audited financial statement of the financial status of the health facility. Such financial statement shall be prepared by independent certified public accountants according to accepted accounting principles.

NOTE: Authority cited: Sections 436.3 and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Section 436.3, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).

§ 91499. Advisory Loan Insurance Committee.

(a) The Advisory Loan Insurance Committee ("Committee") shall advise the Office regarding the borrower's financial capability to service the loan.

(b) The Committee shall be appointed by the Director of the Office and shall consist of nine members as follows:

(1) Seven shall be appointed from outside State Government.

(2) Two from inside State Government.

(c) The members of the Committee shall be qualified in the field of financial analysis of the operation of, capital outlay for, or construction of health facilities or in the health care professions or by experience in the management of non–profit health facilities eligible for insurance under the California Health Facility Construction Loan Insurance Law.

(d) The members shall file statements of economic interest in accordance with the provisions of the Office's conflict of interest code.

(e) No member may participate in any manner, including voting, in the decision of the Committee regarding a health facility in which such member has an economic interest.

(f) Members appointed from outside State Government shall be entitled to claim travel expenses equivalent to those of which state employees are entitled.

NOTE: Authority cited: Sections 436.3 and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Section 436.3, Health and Safety Code.

HISTORY

1. Amendment of subsection (c) filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).
2. Amendment of section heading and subsections (a)–(c) filed 3–27–95; operative 4–26–95 (Register 95, No. 13).

§ 91550. Fee for the Performance of Feasibility Studies for Federal Loan Insurance Programs.

(a) For the purposes of this section, "study" means a study of market need and feasibility for any federal mortgage insurance program for health–related facilities, including the HUD 242 loan insurance program.

(b) The administrative cost of commissioning a study is a fee of five thousandths of one per cent (.005%) of the principal amount of the loan applied for by the health–related facility applying for the study; except that the minimum fee is $1,000 and the maximum fee is $5,000.

(c) At the time of requesting a study, the applicant shall pay to the Office one–half (1/2) of the fee owed to the Office, calculated pursuant to subsection (b) above. This amount is non refundable.

(d) After the Office selects a consultant, and before the Office executes a contract with the consultant for the performance of the study, the applicant:

(1) shall pay to the Office the remaining one–half (1/2) of the fee owed to the Office calculated pursuant to subsection (b) above; and

(2) shall deposit with the Office an amount sufficient to reimburse the Office for the maximum cost of the study to be charged by the consultant, as set forth in the proposed contract for the performance of the study.

(e) After the consultant and the Office sign the contract for the study, no part of the fee paid to the Office to cover the administrative costs of the Office shall be refundable, even if the applicant cancels or terminates its request for the study prior to the completion of the study.

(f) If for any reason the study is not completed after the consultant and the Office sign the contract for the study, no part of the deposit for use by the Office to pay the consultant shall be refundable to the applicant until after the applicant requests the Office in writing to stop the study and the consultant agrees that no additional fees are owed to the consultant.

(g) If, after the study is completed, the final cost of the study by the consultant is less than the amount deposited by the applicant with the Office for that purpose, the Office shall refund the balance to the applicant.

NOTE: Authority cited: Sections 129015 and 127010, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 129048 and 129049, Health and Safety Code.

HISTORY

1. New section filed 3–19–2001; operative 4–18–2001 (Register 2001, No. 12).

Article 3. California Health Facilities Construction Loan Insurance Program—State Plan

NOTE: Authority cited: Sections 436.3, 436.4, and 446.2, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 436.3 and 436.4, Health and Safety Code.

HISTORY

1. Repealer of Article 3 (Sections 91501–91511, not consecutive) and renumbering of Article 7 (Sections 91545 and 91547) to Article 3 (Sections 91545 and 91547) filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51). For prior history, see Register 79, No. 25.
2. Amendment filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).
3. Order of Repeal of Article 3 (Sections 91545 and 91547) filed 6–3–85 by OAL pursuant to Government Code Section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).

Article 4. Defaults

NOTE: Authority cited: Sections 436.3 and 436.13, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer of Article 4 (Sections 91513–91531, not consecutive) filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51). For prior history, see Register 79, No. 25.

Article 5. Termination of Insurance

NOTE: Authority cited: Sections 436.3 and 436.23, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer of Article 5 (Sections 91533–91537, not consecutive) filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51). For prior history, see Register 79, No. 25.

Article 6. Health Facility Construction Loan Insurance Fund

NOTE: Authority cited: Sections 436.3 and 436.26, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Repealer of Article 6 (Sections 91539–91543, not consecutive) filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51). For prior history, see Register 79, No. 25.

Article 7. California Health Facilities Construction Loan Insurance Program—State Plan

NOTE: Authority cited: Sections 436.3 and 436.4, Health and Safety Code. Reference: Sections 436.2 and 436.9, Health and Safety Code, Statutes of 1973.

HISTORY

1. Renumbering of Article 7 (Sections 91545 and 91547) to Article 3 (Sections 91545 and 91547) filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51). For prior history, see Register 79, No. 25.

Chapter 6. Health Workforce Pilot Project Program

Article 1. Definitions

§ 92001. Deputy Director.

Deputy Director means the Deputy Director of the Healthcare Workforce and Community Development Division of the Office of Statewide Health Planning and Development.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Section 128155, Health and Safety Code.

HISTORY

1. New Chapter 6 (Articles 1–7, Sections 92001–92604, not consecutive) filed 2–13–80; effective thirtieth day thereafter (Register 80, No. 7).
2. Repealer and new section filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
3. Change without regulatory effect amending chapter heading, section heading, section and NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92002. Clinical Phase.

"Clinical Phase" means instructor supervised experience with patient during which the trainee applies knowledge presented by an instructor.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Section 128155, Health and Safety Code.

HISTORY

1. Repealer and new section filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92003. Didactic Phase.

"Didactic Phase" means an organized body of knowledge presented by an instructor.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Section 128155, Health and Safety Code.

HISTORY

1. Repealer and new section filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92004. Employment/Utilization Phase.

"Employment/Utilization Phase" means ongoing application of didactic and clinical knowledge and skills in an employment setting under the supervision of the supervisor.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 128155 and 128180, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92005. Employment/Utilization Site.

"Employment/Utilization Site" means health facility or any clinical setting where health care services are provided.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 128135 and 128180, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).

2. Change without regulatory effect amending NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92006. Instructor.

"Instructor" means a person certified or licensed in California to practice or teach the knowledge or skills, or both, the trainee is to learn.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Section 128155, Health and Safety Code.

HISTORY

1. Amendment filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92007. Program.

"Program" means the Health Workforce Pilot Project Program administered by the Office of Statewide Health Planning and Development.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Section 128155, Health and Safety Code.

HISTORY

1. Amendment filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending section and NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92008. Program Staff.

"Program Staff" means the staff of the Office of Statewide Health Planning and Development with responsibility for the Health Workforce Pilot Projects.

NOTE: Authority cited: Sections 127010 and 128165, Health and Safety Code; and Section 11152, Government Code. Reference: Section 128165, Health and Safety Code.

HISTORY

1. Repealer and new section filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending section and NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92009. Project.

"Project" means a Health Workforce Pilot Project approved by the Director.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Section 128155, Health and Safety Code.

HISTORY

1. Repealer and new section filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending section and NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92010. Project Director.

"Project Director" means the individual designated by the sponsor to have responsibilities for the conduct of the project staff, instructors, supervisors, and trainees.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Section 128155, Health and Safety Code.

HISTORY

1. Repealer and new section filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92011. Sponsor.

"Sponsor" means a community hospital or clinic, nonprofit educational institution, or governmental agency engaged in health or educational activities.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Section 128135, Health and Safety Code.

HISTORY

1. Repealer and new section filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending section filed 11–16–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 47).
3. Change without regulatory effect amending NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92012. Training Program.

"Training Program" means an organized educational program that includes at least a didactic phase, clinical phase, and usually an employment/utilization phase. All or portions of the didactic and clinical phases may be concurrent.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Section 128155, Health and Safety Code.

HISTORY

1. Repealer and new section filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92013. Training Program.

NOTE: Authority cited: Section 429.76, Health and Safety Code. Reference: Section 429.71, Health and Safety Code.

HISTORY

1. Repealer filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).

Article 2. Minimum Standards

§ 92101. Minimum Standards.

Each pilot project shall:

(a) Provide for patient safety.

(b) Provide qualified instructors to prepare trainees.

(c) Assure that trainees have achieved a minimal level of competence before they entered the employment/utilization phase.

(d) Inform trainees that there is no assurance of a future change in law or regulations to legalize their role.

(e) Demonstrate that the project has sufficient staff to monitor trainee performance and to monitor trainee supervision during the employment/utilization phase.

(f) Possess the potential for developing new or alternative roles for health care personnel or for developing a reallocation of health care tasks, which would improve the effectiveness of health care delivery systems.

(g) Demonstrate the feasibility of achieving the project objectives.

(h) Comply with the requirements of the Health Workforce Pilot Projects statute and regulations.

(i) Comply with at least one of the eligibility criteria provided in Sections 128130, 128135, and 128160 of Article 1, Chapter 3, Part 3, Division 107, of the Health and Safety Code.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Section 128165, Health and Safety Code.

HISTORY

1. Amendment filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending subsections (h) and (i) and NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

Article 3. Application Procedure

§ 92201. Application Forms.

(a) The application forms and a copy of the Health Workforce Pilot Project statute and regulations shall be obtained from program staff. The forms shall be filled out completely.

(b) The sponsor and project director shall certify in writing that they:

(1) Will not discriminate on the basis of age, sex, creed, disability, race, or ethnic origin.

(2) Will comply with the requirements of the Health Workforce Pilot Project statute and regulations.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Section 128155, Health and Safety Code.

HISTORY

1. Amendment filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending subsections (a) and (b)(2) and NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92202. Application Instructions.

The application instructions shall include, but not be limited to, the following:

(a) Number of copies of completed applications to be submitted to the program.

(b) Name, address and telephone number of person to whom the completed applications are to be submitted.

(c) The time period for submission, when applicable.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Section 128155, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

Article 4. Content of Application

§ 92301. Abstract.

An abstract shall be submitted with each application. This provides a brief description of the information included in the proposal's narrative.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Section 128155, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92302. Purpose and Objectives.

These brief statements describe:

(a) The purpose(s) of the project.

(b) The objectives to meet the purpose(s).

(c) The time plan for accomplishing the objectives.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Section 128155, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92303. Background Information.

Background information shall include, but not be limited to the following:

(a) Documentation of the need for this project.

(b) A description of the types of patients or clients likely to be seen or treated.

(c) A description of the skills trainees are to learn.

(d) An identification of existing laws or regulations, or both, that, in the absence of Health Workforce Pilot Project statute Section 128125, et seq., of the Health and Safety Code, would prevent the preparation and utilization of trainees as proposed in this project.

(e) A description of employment opportunities for trainees after the project terminates.

(f) An identification of other educational programs or groups conducting similar projects.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 128155 and 128165, Health and Safety Code.

HISTORY

1. Amendment filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending subsection (d) and NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92304. Sponsor Information.

Sponsor information shall include, but not be limited to the following:

(a) A description of the sponsor, including a copy of an organizational chart that identifies the project's relationship to the sponsor.

(b) A copy of a document verifying the sponsor's status as a community hospital or clinic, or non–profit educational institution.

(c) A description of functions of the project director, instructors and other project staff.

(d) A description of funding source(s) for the project.

(e) A description of sponsor's previous experience in preparing health care workers.

(f) A description of the composition and functions of an advisory group if one currently exists or will be developed to advise the project.

(g) An identification of collaborative arrangements with other educational institutions and/or health care facilities, or both.

(h) A description and location of facilities used in the didactic and clinical phases. This shall include the availability of support services such as library, equipment, etc.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 128135 and 128155, Health and Safety Code.

HISTORY

1. Amendment filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending subsection (b) and NOTE filed 11–16–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 47).
3. Change without regulatory effect amending NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92305. Participant Selection Information.

Participant selection information shall include at least the following:

(a) Trainee Information.

(1) Criteria used to select trainees.

(2) Plan to inform trainees of their responsibilities and limitations under the Health Workforce Pilot Project statute and regulation.

(3) Number of proposed trainees.

(b) Supervisor Information.

(1) Criteria used to select supervisors.

(2) Plan to orient supervisors to their roles and responsibilities.

(3) Number of proposed supervisors.

(c) Employment/Utilization Site Information.

(1) Criteria used to select an employment/utilization site.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 128155 and 128180, Health and Safety Code.

HISTORY

1. Amendment filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending subsection (a)(2) and NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92306. Curriculum.

The curriculum plan shall include, but not be limited to the following:

(a) A description of the minimum level of competence the trainee shall achieve before entering the employment/utilization phase of the project.

(b) A description of the content required to meet this minimal competency.

(c) A description of the methodology utilized in the didactic and clinical phases.

(d) A description of the evaluation process used to determine when trainees have achieved the minimum level of competence.

(e) An identification in hours and months of the time required to complete the didactic and clinical phases.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 128155 and 128180, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92307. Evaluation.

The evaluation plan shall include, but not be limited to the following:

(a) A description of the baseline data and information collected about the availability or provision of health care delivery, or both, prior to utilization of trainee. The actual baseline data shall be collected and submitted in writing to the program within six (6) months after the project is initially approved.

(b) A description of baseline data and information to be collected about trainee performance, acceptance, and cost effectiveness.

(c) A description of the methodology to be used in collecting and analyzing the data about trainee performance, acceptance, and cost effectiveness.

(d) The data required in (b) and (c) shall be submitted in writing to the program at least annually or as requested by program staff.

(e) The evaluation plan shall include provision for reviewing and modifying the project's objectives and methodology at least annually. Results of this evaluation and project modification shall be reported to program staff in writing.

(f) The evaluation plan shall include provision for retaining for two (2) years after completion of the pilot project all raw data about trainees and the implementation of the project.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 128155 and 128165, Health and Safety Code.

HISTORY

1. Amendment filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92308. Monitoring.

The monitoring plan shall include, but not be limited to the following:

(a) A description of the provisions for protecting patients' safety.

(b) A description of the methodology used by the project director and project staff to provide at least quarterly monitoring of the following:

(1) Trainee competency.

(2) Supervisor fulfillment of role and responsibilities.

(3) Employment/utilization site compliance with selection criteria.

(c) Acknowledgement that project staff or their designee shall visit each employment/utilization site at least semi–annually.

(d) The monitoring plan shall also identify a methodology for reporting information to program staff.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 128155 and 128180, Health and Safety Code.

HISTORY

1. Amendment filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92309. Informed Consent.

The plan used to obtain prior informed consent from patients to be treated by trainees or those legally able to give informed consent for the patients shall be described. It shall include, but not be limited to the following:

(a) A description of the content of the informed consent.

(1) Explanation of the role and status of the trainee, including the ready availability of the trainee's supervisor for consultation.

(2) Assurance that the patient can refuse care from a trainee without penalty for such a request.

(3) Identification that consenting to treatment by a trainee does not constitute assumption of risk by the patient.

(b) Provision that the content of the informed consent, either written or oral, shall be provided in a language in which the patient is fluent.

(c) Documentation in the patient record that informed consent has been obtained prior to providing care to the patient.

(d) Provision for obtaining witnesses to informed consent. Written informed consent must be witnessed. Oral informed consent obtained by the trainee shall have a third party document in writing that he/she has witnessed the oral consent.

(e) Informed consent need be obtained only for those tasks, services, or functions to be provided as a pilot project trainee.

(f) A copy of the language of the informed consent shall be included in the application.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 128150 and 128155, Health and Safety Code.

HISTORY

1. Amendment filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92310. Costs.

A plan for determining estimated or projected costs shall include, but not be limited to the following:

(a) An identification of the average cost of preparing a trainee. This shall include cost information related to instruction, instructional materials and equipment, space for conducting didactic and clinical phases, and other pertinent costs.

(b) An identification of the average cost per patient visit for similar care rendered by a current provider of care.

(c) An identification of predicted average cost per patient visit for the care rendered by a trainee.

(d) Specific information relative to these estimated or projected costs shall be provided to program staff at the time of annual renewal or as otherwise requested.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 128155 and 128165, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92311. Trainee Information.

A plan to provide information to program staff regarding trainees in the employment/utilization phase shall be described. It shall include, but not be limited to the following:

(a) Name, work address and telephone number of the trainee.

(b) Name, work address and telephone number and license number of the supervisor.

(c) This information shall be submitted in writing to program staff within five (5) days of the date trainee enters the employment/utilization phase.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 128155 and 128180, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92312. Modifications.

Any modifications or additions to an approved project shall be submitted in writing to program staff. Modifications include, but are not limited to the following:

(a) Changes in the scope or nature of the project.

(b) Changes in selection criteria for trainees, supervisors, or employment/utilization sites.

(c) Changes in project staff or instructors.

(1) This change will not require prior approval by program staff, but shall be reported to program staff within two (2) weeks after the change occurs.

(2) Curriculum vitae are required on all project staff and instructors.

(d) All other modifications require program staff approval prior to implementation.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Section 128155, Health and Safety Code.

HISTORY

1. Amendment filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92313. Legal Liability.

Sponsors and other participants are advised to ascertain the legal liability they assume when participating in a pilot project.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 128145 and 128155, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

Article 5. Application Review Process

§ 92401. Review Process for New Applications.

The review process of a completed application shall include, but not be limited to the following:

(a) An initial review conducted by program staff to determine the appropriateness and completeness of the application.

(b) Review and comment by technical consultant(s) selected by program staff for review and comment within forty–five (45) calendar days from the date on which the application was distributed for review.

(c) Review and comment by appropriate Healing Arts Boards and professional associations within forty–five (45) calendar days from the date on which the application was distributed for review.

(d) An abstract of the application shall be made available to any interested party upon request.

(e) A complete application shall be available for review in program offices during normal working hours.

(f) A public meeting shall be scheduled on a date that is no sooner than forty–five (45) calendar days from the date on which the applications were distributed for review to discuss the application and comments of consultants, reviewers, healing arts boards, professional associations, and other interested parties with the applicant.

(g) Review for state agency applications shall be as noted in this section with the additional procedure of Section 128175 of the Health and Safety Code.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 128135, 128155 and 128175, Health and Safety Code.

HISTORY

1. Amendment filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending subsection (g) and NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92402. Review for State Agency Application.

NOTE: Authority cited: Section 429.76, Health and Safety Code. Reference: Section 429.80, Health and Safety Code.

HISTORY

1. Repealer filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).

Article 6. Project Approval

§ 92501. Initial Approval.

(a) The Director has the exclusive authority to grant approval or deny approval to a pilot project applicant.

(b) Approval may be for one year or less or until the project is completed, whichever is sooner.

(c) The Director's decision shall be transmitted in writing to the applicant with copies to interested parties.

(d) A sponsor whose project has been denied may resubmit a modified application after a sixty (60) day waiting period.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Section 128135, Health and Safety Code.

HISTORY

1. Repealer of Article 6 (Sections 92501–92504) and new Article 6 (Section 92501) filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

Article 7. Program Responsibilities

§ 92601. Records.

The program shall maintain the following records:

(a) A copy of the application, related documents and evaluation data on all projects for a minimum of three (3) years after termination of a project. These shall be available for public review in the program office during regular working hours.

(b) A list of all trainees who are in the employment/utilization phase. This shall be updated at least semi–annually by the sponsors except as provided for in Section 92311(c).

(c) Information about project applications, approved projects and the status of trainees who are in the employment/utilization phase shall be provided to appropriate State regulatory bodies.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 128155 and 128165, Health and Safety Code.

HISTORY

1. Repealer of Article 7 (Sections 92601–92604) and new Article 7 (Sections 92601–92604) filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92602. Project Evaluation.

The evaluation of approved projects shall include, but not be limited to, the following:

(a) Written information shall be requested periodically by program staff to ascertain the progress of the project in meeting its stated objectives and in complying with program statutes and regulations.

(b) Periodic site visits shall be conducted to project offices, locations, or both, where trainees are being prepared or utilized as noted in Section 128165.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 128125 and 128165, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending subsection (b) and NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92603. Site Visits.

Site visits shall include at least the following:

(a) Determination that adequate patient safeguards are being utilized.

(b) Validation that the project is complying with the approved or amended application.

(c) Interviews with project participants and recipients of care.

(d) An interdisciplinary team composed of representatives of the healing arts boards, professional organizations, and other State regulatory bo-

dies shall be invited to participate in a site visit. They will receive at least fourteen (14) calendar days written notice.

(e) Written notification of the date, purpose, and principal members of the site visit team shall be sent to the project director at least fourteen (14) calendar days prior to the date of the site visit.

(f) Plans to interview trainees, supervisors and patients or to review patient records shall be made in advance through the project director.

(g) Site visits by program staff may be scheduled, after consultation with the project sponsor or director, on less than twenty–four (24) hours notice when questions of patient or trainee safety necessitate.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 128125 and 128165, Health and Safety Code.

HISTORY

1. Editorial correction of Reference cite (Register 95, No. 25).
2. Change without regulatory effect amending NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92604. Continuing Approval.

(a) Continuing approval shall be contingent upon review of written information submitted by the project of the project's progress in meeting stated objectives and its compliance with plans described in the approval or amended application.

(b) Approval may be granted for periods of time up to one year as determined by the Director.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 128155 and 128180, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

Article 8. Project Completion/Termination

§ 92701. Completion of Project.

(a) An approved project shall indicate its intention in writing to discontinue its status as a Health Workforce Pilot Project.

(b) A closing report shall be submitted. This report shall include at least the following:

(1) The reasons for discontinuation as a pilot project.

(2) A summary of pilot project activities including the number of persons who entered the employment/utilization phase.

(3) A description of the plan to inform trainees of the project's discontinuation, and that they are precluded from performing the skills authorized under the pilot project after discontinuation unless the role has been legalized.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Section 128155, Health and Safety Code.

HISTORY

1. New Article 8 (Sections 92701 and 92702) filed 7–29–83; effective thirtieth day thereafter (Register 83, No. 31).
2. Change without regulatory effect amending subsection (a) and NOTE filed 2–28–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 92702. Termination of Project.

A pilot project may be terminated during the term of approval in the following way:

(a) In the event of a general or non–critical failure to comply with the program's statute, regulations or conditions of the approved application, a written notice of intent to terminate, stating with specificity the reasons for the intended termination, shall be served on the project director and sponsor thirty (30) calendar days before the termination is to become effective.

(1) If a project director or sponsor desires to protest the termination, that director or sponsor shall, within seven (7) calendar days after service of notice of intent to terminate, serve upon the program, written notice requesting that an informal conference be scheduled to review the matter with the Deputy Director.

(2) The Deputy Director, or designee, shall hold, within fourteen (14) calendar days from the service of the request, an informal conference.

(A) The project director or sponsor shall have the right to be represented by legal counsel and to present oral or written evidence or other information in its behalf at the informal conference.

(B) The representatives of the program shall attend the conference and present evidence or information, oral or written, in substantiation of the recommended termination.

1. The conference shall be a simple, informal proceeding and shall not be conducted in the manner of a judicial hearing or as a hearing under the Administrative Procedure Act (Chapter 5, commencing with Section 11500 of Part 1 of Division 3 of the Government Code), and need not be conducted according to technical rules relating to evidence and witnesses.

2. Neither the project director, sponsor, nor the program, shall have the right to subpoena any witnesses to attend the conference, or to formally cross–examine any person testifying at the conference. However, the project director or sponsor and the program may present any witnesses on their behalf at the conference.

(C) Within three (3) calendar days of the conclusion of the informal conference the Deputy Director shall either recommend the termination or withdraw the notice of intent to terminate. The Deputy Director shall state the decision in writing and shall immediately transmit a copy of the decision to the project director or sponsor.

(D) If the project director or sponsor desires to contest the decision made after the informal conference, that director or sponsor shall serve written notice on the Deputy Director within seven (7) calendar days after service of the decision of the informal conference.

(E) If the project director or sponsor fails to notify the Deputy Director of the intention to contest the decision of the informal conference within the specified time, the decision by the Deputy Director shall be deemed a final order of the Director and shall not be subject to further administrative review.

(F) Upon notifying the Deputy Director, in writing, of the intention to contest the decision of the informal conference the project director or sponsor shall, within seven (7) calendar days of the service of the decision of informal conference, serve upon the Director and the program a memorandum or brief which sets forth, with particularity, the specific grounds for contesting the decision and the support for these grounds.

(G) Within seven (7) calendar days of the service of the project director's or sponsor's memorandum or brief, the program may serve a memorandum or brief containing its arguments in support of the decision of the informal conference on the Director and the project director or sponsor.

(H) Within seven (7) calendar days from the service of the program's arguments, the project director or sponsor may serve a reply memorandum or brief containing its arguments to the program's position of the Director and the program. The project director or sponsor shall notify the Director in writing within seven (7) calendar days from the service of the program's memorandum or brief, if no reply will be filed.

(I) The Director shall, within seven (7) calendar days from the service of the project director's or sponsor's counter arguments, or within seven (7) calendar days from the service of the notice that no reply brief will be filed, render a decision to either terminate the project or to withdraw the notice of intent to terminate. The decision shall be in writing and shall state the reasons for the decision. The decision shall be immediately transmitted to the project director or sponsor. This decision shall be deemed a final order of the Director and shall not be subject to further administrative review.

(b) In the event of non–compliance with the program's statute, regulations, or conditions of the approved application, which constitute a threat to patient health or safety, project approval shall be immediately suspended. Notice of suspension, together with a notice of intent to terminate project approval, shall be provided the project director or sponsor. Notice of the suspension and of the intent to terminate may be given in

writing and must state, with particularity, the reasons for the suspension and the intended termination; or notice may be given orally, but must be followed within seven (7) calendar days, by a written notice which states, with particularity, the reasons for the suspension and the intended termination. A threat to patient health or safety occurs when the physical or mental well-being of a patient is in jeopardy from continued performance by the pilot project trainee(s).

(1) If the project director or sponsor desires to protest the suspension or intended termination, that director or sponsor shall, within seven (7) calendar days after service of the written notice, serve upon the program written notice requesting that an informal conference be scheduled to review the matter with the Deputy Director.

(2) The Deputy Director, or designee, shall hold an informal conference within fourteen (14) calendar days after service of the project director's or sponsor's request.

(3) The conference and appeals procedure shall be identical to the procedure established in Subsections 92702(a)(2)(A) through (I) of Title 22, of the California Administrative Code, except that these provisions shall also apply:

(A) If the decision of the informal conference is that there is no basis for the termination of the project approval, the Deputy Director's written decision shall contain, in addition to the reasons for the decision, an order lifting the suspension of project approval and withdrawing the notice of intent to terminate project approval.

(B) If the decision of the Director is that there is no basis for the termination of project approval, the Director's written decision shall contain, in addition to the reasons for the decision, an order lifting the suspension of project approval and withdrawing the notice of intent to terminate project approval.

(C) If the project director or sponsor fails to protest, in writing, the suspension or the intended termination within seven (7) calendar days after service of the written notice of suspension or intended termination, the Deputy Director shall order the termination of the project approval and shall serve upon the director or sponsor a notice stating that project approval has been terminated and stating the reasons for the termination. The decision by the Deputy Director shall be deemed a final order of the Director and shall not be subject to further administrative review.

(D) The temporary suspension shall remain in effect until such time as the hearing is completed and the Director has made a final determination on the merits provided. However, the temporary suspension shall be deemed vacated if the Director fails to make a final determination on the merits within seventy (70) days after the original hearing has been completed.

(c) All appropriate regulatory bodies shall be immediately informed in writing when procedure to terminate has been instituted by program staff.

(d) Program staff shall notify the project's trainees and trainee's supervising professional(s), in writing, of the suspension of the project and the outcome of any hearing relative to that suspension.

(e) Trainees are precluded from performing the skills authorized under the pilot project when a project is suspended or terminated.

NOTE: Authority cited: Sections 127010 and 128155, Health and Safety Code; and Section 11152, Government Code. Reference: Sections 128125, 128140 and 128155, Health and Safety Code.

HISTORY

1. Editorial correction of subsection (b)(3) filed 9-23-83 (Register 83, No. 39).
2. Change without regulatory effect amending section and NOTE filed 2-28-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

Chapter 7. Seismic Structural Safety Standards

Article 1. General Provisions

§ 94001. Purpose.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. New Chapter 7 (Sections 94001–94134, not consecutive) filed 10–11–79; effective thirtieth day thereafter (Register 79, No. 41).
2. Change without regulatory effect repealing chapter 7 (articles 1–16, sections 94001–94602), article 1 (sections 94001–94009) and section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94003. Scope.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94005. Authority.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94007. Interpretation.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94009. Application of Regulations.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

Article 2. Definitions

§ 94011. Approved Drawings and Specifications.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing article 2 (sections 94011–94033) and section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94013. Building.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94015. Building Safety Board.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94017. Contract Documents.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94019. Construction, Reconstruction, Alteration and Additions.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94020. Deferred Approvals.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94021. Department.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94023. Earthquake.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94025. License.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94027. Professionals Approved As Design Principals.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94029. Lateral Force Resisting Capacity.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94031. Structural Elements.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94033. Structural Repairs.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

Article 3. Approval of Drawings and Specifications

§ 94037. Application for Approval of Drawings and Specifications.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing article 3 (sections 94037–94055) and section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94039. Preparation of Drawings and Specifications.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94041. Site Data.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94043. Acceptance of Site Data.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94045. Preliminary Drawings and Outline Specifications.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94047. Acceptance of Preliminary Drawings and Outline Specifications.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94049. Contract Drawings and Specifications.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94051. Approval of Contract Drawings and Specifications.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94053. Time Limitations for Approval.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94055. Incremental Design, Bidding and Construction.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

Article 4. Fees

§ 94056. Fees.

NOTE: Authority cited: Sections 446.2, 15046 and 15055, Health and Safety Code; and Section 11152, Government Code. Reference: Section 15046, Health and Safety Code.

HISTORY

1. Repealer and new section filed 1–11–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 3).
2. Change without regulatory effect repealing article 4 (section 94056) and section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

Article 5. Approval of Construction

§ 94057. Time of Beginning Construction.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing article 5 (sections 94057–94077) and section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94059. Notice of Start of Construction.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94060. Notice of Suspension of Construction.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94061. Administration of Construction.

NOTE: Authority cite: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94063. Responsibility of the Contractor.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

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§ 94065. Continuous Inspection of the Work.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94067. Observation by the Department and the Department of General Services.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94069. Tests.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94071. Verified Reports.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94073. Addenda, Change Orders, and Deferred Approvals.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94075. Final Approval of the Work.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94077. Records.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

Article 6. Appeals Procedures of the Building Safety Board

§ 94081. Appeals.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing article 6 (sections 94081–94093) and section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94083. Informal Conference.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94085. Formal Hearing Request.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94087. Public Hearing on Appeal.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94089. Rights of the Appellant.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94091. Appeal Hearing Procedure.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

§ 94093. Decision on Appeal.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

Article 7. General Design Requirements (Testing and Inspection)

§ 94100. Nonbuilding Regulations.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing article 7 (section 94100) and section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

Article 8. Masonry (Testing and Inspection)

§ 94106. Nonbuilding Regulations.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing article 8 (section 94106) and section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

Article 9. Wood (Testing and Inspection)

§ 94110. Nonbuilding Regulations.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing article 9 (section 94110) and section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

Article 10. Concrete (Testing and Inspection)

§ 94114. Nonbuilding Regulations.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing article 10 (section 94114) and section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

Article 11. Steel and Iron (Testing and Inspection)

§ 94118. Nonbuilding Regulations.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing article 11 (section 94118), section and Table T22–94118, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

Article 12. Aluminum (Testing and Inspection)

§ 94122. Nonbuilding Regulations.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing article 12 (section 94122) and section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

Article 13. Excavations, Foundations and Retaining Walls (Testing and Inspections)

§ 94126. Nonbuilding Regulations.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing article 13 (section 94126) and section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

Article 14. Veneer (Testing and Inspection)

§ 94130. Nonbuilding Regulations.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing article 14 (section 94130) and section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

Article 15. Masonry or Concrete Chimneys, Fireplaces and Barbecues (Testing and Inspection)

§ 94134. Nonbuilding Regulations.

NOTE: Authority cited: Sections 446.3 and 15020, Health and Safety Code. Reference: Sections 15000–15023, Division 12.5, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing article 15 (section 94134) and section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

Article 16. Contracts

§ 94602. Qualification Criteria.

NOTE: Authority cited: Sections 15055 and 15056, Health and Safety Code. Reference: Section 15056, Health and Safety Code.

HISTORY

1. New section filed 4–22–85; effective thirtieth day thereafter (Register 85, No. 17).
2. Change without regulatory effect repealing article 16 (section 94602) and section, filed 4–8–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 15).

Chapter 8. Clinic Renovation (Construction) Grant and Loan Program

Article 1. Definitions

§ 95000. Advisory Health Council.

NOTE: Authority and Reference cited: Section 437.0, Health and Safety Code, Statutes of 1967.

HISTORY

1. New Chapter 8 (Articles 1–7, Sections 95000–95260, not consecutive) filed 3–19–80 as an emergency; effective upon filing (Register 80, No. 12). A Certificate of Compliance must be transmitted to OAH within 120 days or emergency language will be repealed on 7–18–80.
2. Certificate of Compliance transmitted to OAL 7–11–80 and filed 7–29–80 (Register 80, No. 31).
3. Change without regulatory effect repealing chapter 8 (article 1–7, sections 95000–95260), article 1 (sections 95000–95080) and section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95005. Advisory Loan Committee.

NOTE: Authority and Reference cited: Section 436.3, Health and Safety Code, Statutes of 1969.

HISTORY

1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95010. Director.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY

1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95015. Secretary.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY

1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95020. Office.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY

1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95025. Facility.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY

1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95030. Clinic.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY

1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95040. Construction Costs.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY

1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95045. Renovation.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY
1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95050. Fixed Capital Equipment.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY
1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95055. Underserved Areas.

NOTE: Authority and Reference cited: Sections 436.484 436.485, Health and Safety Code, Statutes of 1979.

HISTORY
1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95060. Project Property.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY
1. Certificate of Compliance including amendment transmitted to OAL 7–11–80 and filed 7–29–80 (Register 80, No. 31).
2. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95065. Loan.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY
1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95070. Borrower.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY
1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95075. Mortgage.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY
1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95080. Trustee.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY
1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

Article 2. Eligibility

§ 95090. Applicants.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY
1. Change without regulatory effect repealing article 2 (section 95090) and section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

Article 3. Types of Assistance

§ 95095. Types of Assistance.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY
1. Change without regulatory effect repealing article 3 (sections 95095—95120) and section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95100. Advisory Loan Committee.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY
1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95120. Awards Procedure for Grants and Loans.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY
1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

Article 4. General Provisions

§ 95130. General.

HISTORY
1. Change without regulatory effect repealing article 4 (sections 95130–95135) and section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95135. Grant and Loan Purposes.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY
1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

Article 5. Application for Funds

§ 95140. Procedures.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY
1. Change without regulatory effect repealing article 5 (sections 95140–95150) and section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95145. Needs.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY
1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95150. Coordination.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY
1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

Article 6. Selection Process

§ 95155. Notice and Pre-Application.

DIVISION OF FACILITIES DEVELOPMENT
OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT
714 P STREET, ROOM 916
SACRAMENTO, CA 95814

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY
1. Change without regulatory effect repealing article 6 (sections 95155–95170) and section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95160. Financial Assistance Application.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY
1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95165. Method of Selection of Applicants for Awards.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes 1979.

HISTORY

1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95170. Encumberment.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY

1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

Article 7. Administration

§ 95175. General.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY

1. Change without regulatory effect repealing article 7 (sections 95175–95260) and section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95180. Priority of Applications.

NOTE: Authority and reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY

1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95185. Second Grant Cycle.

NOTE: Authority and reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY

1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95200. Maximum Grant.

NOTE: Authority and reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY

1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95210. Loans.

NOTE: Authority and reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY

1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95220. Repayment of the Loan.

NOTE: Authority and Reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY

1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95230. Security for the Loan.

NOTE: Authority and reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY

1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95240. Disbursement of Loan Proceeds or Grant Awards.

NOTE: Authority and reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY

1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95250. Events of Default.

NOTE: Authority and reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY

1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 95260. Remedies.

NOTE: Authority and reference cited: Sections 436.484 and 436.485, Health and Safety Code, Statutes of 1979.

HISTORY

1. Change without regulatory effect repealing section, filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

Chapter 9. Hospital Charges and Fair Pricing Policies Reporting

Article 1. Hospital Charge Description Master Reporting

§ 96000. Definitions.

For the purposes of this article, the following definitions from California Health and Safety Code Section 1339.51 apply:

(a) "Charge description master" means a uniform schedule of charges represented by the hospital as its gross billed charge for a given service or item, regardless of payer type.

(b) "Hospital" means a hospital, as defined in subdivision (a), (b), or (f) of California Health and Safety Code Section 1250, that uses a charge description master.

(c) "Office" means the Office of Statewide Health Planning and Development.

NOTE: Authority cited: Section 11152, Government Code. Reference: Sections 1339.55 and 1339.56, Health and Safety Code.

HISTORY

1. Amendment of chapter 9 heading, repeal of article 1 heading and new section filed 3–23–2005; operative 4–22–2005 (Register 2005, No. 12). For prior history of chapter 9 (articles 1–3, sections 96000–96150), see Register 96, No. 17.
2. Repealer and new chapter 9 heading and new article 1 heading filed 8–8–2007; operative 9–7–2007 (Register 2007, No. 32).

§ 96005. Charge Description Master Reporting.

On July 1, 2005, and annually on July 1 thereafter, each hospital shall file with the Office a copy of the hospital's charge description master as of June 1 of the same calendar year in one of the following electronic file formats: Microsoft Excel (.xls) or Comma Separated Value (.csv). Hardcopy documents are not acceptable.

NOTE: Authority cited: Section 11152, Government Code. Reference: Section 1339.55, Health and Safety Code.

HISTORY

1. New section filed 3–23–2005; operative 4–22–2005 (Register 2005, No. 12). For prior history, see Register 96, No. 17.

§ 96010. List of Common Outpatient Procedures Reporting.

On July 1, 2006, and annually on July 1 thereafter, each hospital shall file with the Office a list of its average charges for 25 common outpatient procedures as of June 1 of the same calendar year in one of the following electronic file formats: Microsoft Excel (.xls) or Comma Separated Value (.csv). Hardcopy documents are not acceptable.

NOTE: Authority cited: Section 11152, Government Code. Reference: Section 1339.56, Health and Safety Code.

HISTORY

1. New section filed 3–23–2005; operative 4–22–2005 (Register 2005, No. 12).
2. Amendment of section heading and section filed 5–8–2006; operative 5–8–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 19).

§ 96015. Estimate of Revenue Increase Reporting.

On July 1, 2006, and annually on July 1 thereafter, each hospital shall file with the Office an estimate of the percentage increase in the hospital's gross revenue due to any price increase for charges for patient services during the 12–month period beginning with the effective date of the previous charge description master filed with the Office. The estimate shall include the estimate calculation and supporting documentation in one of the following electronic file formats: Microsoft Excel (.xls) or Comma Separated Value (.csv). Hardcopy documents are not acceptable.

NOTE: Authority cited: Section 11152, Government Code. Reference: Section 1339.55, Health and Safety Code.

HISTORY
1. New section filed 3–23–2005; operative 4–22–2005 (Register 2005, No. 12).

§ 96020. Methods of Submission.

Each hospital shall submit the documents required by Sections 96005, 96010, and 96015 together as attachments to one e–mail to the Office at chargemaster@oshpd.ca.gov. Alternatively, each hospital may submit the electronic files required by Sections 96005, 96010, and 96015 together on one Compact Disc (CD) by mail to:

OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT,
ACCOUNTING AND REPORTING SYSTEMS SECTION,
818 K STREET, ROOM 400,
SACRAMENTO, CA. 95814.

Hardcopy documents are not acceptable.

NOTE: Authority cited: Section 11152, Government Code. Reference: Sections 1339.55 and 1339.56, Health and Safety Code.

HISTORY
1. New section filed 3–23–2005; operative 4–22–2005 (Register 2005, No. 12).

§ 96025. Request for Modifications to Requirements.

To obtain modifications to the requirements specified for electronic file formats, effective date of the documents, submission date of the documents, or methods of submitting electronic files, hospitals shall file written requests for modification with the Office. Hospitals shall have an Office–approved modification prior to implementation of any change to the applicable requirements. Modification requests shall specify the precise changes being requested and the reason(s) the changes are needed. The Office shall either approve or disapprove requests for modification on a case–by–case basis.

NOTE: Authority cited: Section 11152, Government Code. Reference: Sections 1339.55 and 1339.56, Health and Safety Code.

HISTORY
1. New section filed 3–23–2005; operative 4–22–2005 (Register 2005, No. 12).

Article 2. Hospital Fair Pricing Policies Reporting

§ 96040. Definitions.

For the purposes of this article, the following definitions apply:

(a) "Hospital" means any facility that is required to be licensed under subdivision (a), (b), or (f) of California Health and Safety Code Section 1250, except a facility operated by the State Department of Mental Health or the Department of Corrections.

(b) "Office" means the Office of Statewide Health Planning and Development.

(c) "Discount payment" means that part of the hospital's charges that a financially qualified patient is expected to pay in accordance with Health and Safety Code Sections 127405 (b) and 127405 (d). That portion of the hospital's charges for which payment is not expected from the patient due to the patient's inability to pay is accounted for and reported as partial charity care.

NOTE: Authority cited: Section 11152, Government Code; and Section 127435, Health and Safety Code. Reference: Sections 127400, 127405 and 127435, Health and Safety Code.

HISTORY
1. New article 2 (sections 96040–96050) and section filed 8–8–2007; operative 9–7–2007 (Register 2007, No. 32).

§ 96041. Hospital Discount Payment and Charity Care Policies Reporting.

Each hospital shall submit a copy of its discount payment policy, charity care policy, eligibility procedures for those policies, review process, and application form for charity care or discount payment programs to the Office. This information is due January 1, 2008, and biennially on January 1 thereafter. If a hospital makes no significant change to its discount payment policy, charity care policy, eligibility procedures for those policies, review process, or application form for charity care or discounted payment programs previously submitted to the Office, the hospital may notify the Office of the lack of change in accordance with Section 96046 instead of submitting the information. The significance of the change shall be evaluated from the perspective of the anticipated impact on the population intended to benefit from California Health and Safety Code Section 127435.

NOTE: Authority cited: Section 11152, Government Code; and Section 127435, Health and Safety Code. Reference: Sections 127405 and 127435, Health and Safety Code.

HISTORY
1. New section filed 8–8–2007; operative 9–7–2007 (Register 2007, No. 32).

§ 96042. Electronic Reporting of Hospital Discount Payment and Charity Care Policies, Eligibility Procedures, and Review Process.

Each hospital shall submit its discount payment policy, charity care policy, eligibility procedures for those policies, and review process to the Office as one electronic file in Microsoft Word (.doc). The electronic file must clearly identify the hospital's discount payment policy, charity care policy, eligibility procedures for those policies, and review process in separate, distinct sections of the file. Hardcopy documents are not acceptable.

NOTE: Authority cited: Section 11152, Government Code; and Section 127435, Health and Safety Code. Reference: Sections 127405 and 127435, Health and Safety Code.

HISTORY
1. New section filed 8–8–2007; operative 9–7–2007 (Register 2007, No. 32).

§ 96043. Electronic Reporting of Hospital Application Form for Charity Care or Discount Payment Programs.

Each hospital shall submit its application form for charity care or discounted payment programs to the Office as one electronic file in one of the following file types: Microsoft Word (.doc), or Portable Document Format (.pdf). Hardcopy documents are not acceptable.

NOTE: Authority cited: Section 11152, Government Code; and Section 127435, Health and Safety Code. Reference: Sections 127405 and 127435, Health and Safety Code.

HISTORY
1. New section filed 8–8–2007; operative 9–7–2007 (Register 2007, No. 32).

§ 96044. Reporting Significant Changes to Hospital Discount Payment and Charity Care Policies.

Whenever a hospital makes a significant change to its discount payment policy, charity care policy, eligibility procedures for those policies, or review process, the hospital must submit a complete copy of the entire discount payment policy, charity care policy, eligibility procedures for those policies, and review process to the Office in accordance with Sections 96042 and 96046. The significance of the change shall be evaluated from the perspective of the anticipated impact on the population intended to benefit from California Health and Safety Code Section 127435.

NOTE: Authority cited: Section 11152, Government Code; and Section 127435, Health and Safety Code. Reference: Sections 127405 and 127435, Health and Safety Code.

HISTORY
1. New section filed 8–8–2007; operative 9–7–2007 (Register 2007, No. 32).

§ 96045. Reporting Significant Changes to Hospital Charity Care or Discount Payment Programs Application Forms.

Whenever a hospital makes a significant change to its application form for charity care or discount payment programs, the hospital must submit a complete copy of the entire application form for charity care or discount payment programs to the Office in accordance with Sections 96043 and 96046. The significance of the change shall be evaluated from the perspective of the anticipated impact on the population intended to benefit from California Health and Safety Code Section 127435.

NOTE: Authority cited: Section 11152, Government Code; and Section 127435, Health and Safety Code. Reference: Sections 127405 and 127435, Health and Safety Code.

HISTORY
1. New section filed 8–8–2007; operative 9–7–2007 (Register 2007, No. 32).

§ 96046. Method of Submission of Fair Pricing Documents and Notifications.

Each hospital shall submit its discount payment policy, charity care policy, eligibility procedures for those policies, review process, and application form for charity care or discount payment programs as electronic files identified in Sections 96042 and 96043 using the Office's internet System for Fair Price Hospital Reporting located on the Office's web site at: https://syfphr.oshpd.ca.gov/. Hospitals shall use a Microsoft Internet Explorer web browser that supports a secure internet connection utilizing the Secure Hypertext Transfer Protocol (HTTPS or https) and 128–bit cypher strength Secure Socket Layer (SSL) to utilize the Office's internet System for Fair Price Hospital Reporting.

If there are no significant changes to a hospital's discount payment policy, charity care policy, eligibility procedures for those policies, review process, or application form for charity care or discounted payment programs previously submitted to the Office and the hospital chooses to notify the Office of the lack of changes to the information, the hospital shall use the Office's internet System for Fair Price Hospital Reporting to notify the Office of the lack of changes.

NOTE: Authority cited: Section 11152, Government Code; and Section 127435, Health and Safety Code. Reference: Sections 127405 and 127435, Health and Safety Code.

HISTORY

1. New section filed 8–8–2007; operative 9–7–2007 (Register 2007, No. 32).

§ 96050. Request for Modifications to Requirements.

To obtain modifications for electronic file types or method of submitting electronic files or notifications, hospitals shall file written requests for modification with the Office. Hospitals shall have an Office–approved modification prior to implementation of any change to the applicable requirements. Modification requests shall specify the precise changes being requested and the reason(s) the changes are needed. The Office shall either approve or disapprove requests for modification on a case–by–case basis.

NOTE: Authority cited: Section 11152, Government Code; and Section 127435, Health and Safety Code. Reference: Sections 127405 and 127435, Health and Safety Code.

HISTORY

1. New section filed 8–8–2007; operative 9–7–2007 (Register 2007, No. 32).

Chapter 10. Health Facility Data

Article 1. General

§ 97003. Accounting System Requirements.

(a) The hospital accounting system prescribed by this Chapter shall be used by all hospitals licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, Health and Safety Code.

(b) The long–term care facility accounting system prescribed by this Chapter shall be used by all skilled nursing facilities, intermediate care facilities, intermediate care facilities/developmentally disabled, and congregate living health facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, Health and Safety Code.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128760, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former title 4, chapter 10 (sections 7003, 7005, 7007 and 7008) to title 22, division 7 (sections 97003, 97005, 97007 and 97008) filed 11–5–85; designated effective 1–1–86 (Register 85, No. 45). For prior history, see Register 83, No. 16.
2. Amendment of subsection (b) filed 9–7–93; operative 10–6–93 (Register 93, No. 37).
3. Change without regulatory effect amending NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

§ 97005. Definitions.

As used in this Chapter:

(a) "Act" means the Health Data and Advisory Council Consolidation Act set forth in Division 1, Part 1.8 (commencing with Section 128675) of the Health and Safety Code.

(b) "Unrestricted funds" means funds which bear no external restrictions as to use or purpose: i.e., funds which can be used for any legitimate purpose designated by the governing board as distinguished from funds restricted externally.

(c) "Restricted funds" means funds restricted by donors or grantors for specific purposes. The term refers to plant replacement and expansion, specific purpose and endowment funds.

(d) "Long–term care facility" and "long–term care facilities" mean all skilled nursing facilities, intermediate care facilities, intermediate care facilities/developmentally disabled, and congregate living heath facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, Heath and Safety Code.

(e) "Preponderance" means 51 percent or more of gross in–patient revenue. This definition also applies to Section 128760 of the Health and Safety Code.

(f) "Director" means the Director of the Office of Statewide Health Planning and Development.

(g) "Health facility" or "health facilities" means all health facilities required to be licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(h) "Health facility gross operating cost for the provision of health care services" (Section 127280(a), Health and Safety Code) means total patient–related operating expenses as reported to the Office for the fiscal years ending on or before June 30 of the previous calendar year on:

(1) Hospital disclosure report CHC 7041 d–1, column 1, line 200, for hospitals, and

(2) Long–term care facility disclosure report CHFC 7041 d–1, column 1, line 200, for long–term care facilities.

(i) "New health facility" means any health facility beginning or resuming operations for the first time within a 12–month period.

(j) Disclosure reports, extension requests, appeal petitions, and other items are deemed to have been "filed" or "submitted" with the Office:

(1) as of the date they are postmarked by the United States Postal Service if properly addressed and postage prepaid;

(2) as of the date they are dated by a commercial carrier if properly addressed and delivery fee prepaid;

(3) when received by the Office via FAX machine or other electronic device;

(4) when received by the Office via hand delivery; or

(5) when otherwise received by the Office.

(k) "Hospital accounting manual," "manual for hospitals" and "hospital manual" mean the "Accounting & Reporting Manual for California Hospitals" published by the Office and more particularly described by Section 97018 of this Chapter.

(l) "Long–term care manual," "manual for long–term care facilities," and "LTC manual" mean the "Accounting and Reporting Manual for California Long–term Care Facilities" published by the Office and more particularly described by Section 97019 of this Chapter.

(m) "Owner" means any individual or organization having a five percent or more equity interest, direct or indirect, in the entity licensed as a health facility.

(n) "Office" and "OSHPD" mean the Office of Statewide Health Planning and Development.

(o) "Commission" means the California Health Policy and Data Advisory Commission.

(p) "Licensee" means the person, firm, partnership, association, corporation, political subdivision of the state, or other governmental agency within the state licensed to operate a health facility.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Part 1.8 of Division 1 and Section 1253, Health and Safety Code.

HISTORY

1. Change without regulatory effect of subsection (h) filed 11–28–88 (Register 88, No. 51).
2. Amendment section and NOTE filed 9–7–93; operative 10–6–93 (Register 93, No. 37).
3. Editorial correction of printing error in subsection (k) (Register 93, No. 51).
4. Amendment of subsection (h)(2) filed 9–7–95; operative 10–7–95 (Register 95, No. 36).
5. Change without regulatory effect amending subsections (a), (e) and (h) and amending NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

§ 97007. Notice of Change in Health Facility Fiscal Year, Licensure, Name, Address, or Closure.

(a) Each license of a health facility shall notify the Office in writing whenever the health facility fiscal year is changed. Notification shall be made within 30 days of such action by the health facility. The notice shall include the health facility name, street address, and both old and new fiscal year ending dates.

(b) Each licensee of a health facility shall notify the Office in writing within 30 days of the effective date of any change of licensee of the health facility. Such notice shall include the following, as applicable: the old and new names of the health facility, the names of the former and new licensees, permanent or forwarding street and mailing addresses of the former and new licensees, old and new telephone numbers of the health facility, the telephone number of the former licensee if available to the new licensee, the telephone number of the new licensee, the names of the owners having a five percent or more interest in the health facility, the names of the chair and members of the governing body, and the name of the individual in charge of the day–to–day operation of the health facility.

(c) Each licensee of a health facility shall notify the Office in writing within 30 days of any change in the name, or telephone number. or street and mailing addresses of the health facility. Such notice shall include the old and new names of the health facility and/or the old and new street and mailing addresses of the health facility, and old and new telephone numbers.

(d) Each licensee of a health facility shall notify the Office in writing within 30 days of any change in the owners having a five percent or more interest in the health facility, in the chair and members of the governing body, and in the individual in charge of the day–to–day operation of the health facility.

(e) Each licensee of a health facility shall notify the Office in writing within 30 days of the facility's closure. Such notice shall include the last date patient care was provided, the final date of licensure, the street and mailing address of the health facility, the permanent or forwarding mailing address of the health facility licensee, the telephone number of the health facility licensee.

(f) Each licensee of a hospital shall notify the Office in writing within 30 days of the date the license is placed in suspense. Such notice shall include the last date patient care was provided, the date the license was placed in suspense, the street and mailing address of the health facility, the permanent or forwarding mailing address of the health facility licensee, and the telephone number of the health facility licensee.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 127280, 128735, 128740, 128755 and 128760, Health and Safety Code.

HISTORY

1. Amendment filed 3–25–91; operative 4–24–91 (Register 91, No. 16).
2. Amendment filed 9–7–93; operative 10–6–93 (Register 93, No. 37).
3. Editorial correction of printing error in subsections (b) and (f) (Register 93, No. 51).
4. Change without regulatory effect amending NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

§ 97008. Notice of New Health Facility Operations.

Each licensee of a health facility beginning operations, whether in a newly constructed facility or in an existing facility, pursuant to a new license or a license previously in suspense, shall provide the Office the following information in writing within seven days after the effective date of the license: name of health facility, name of licensee, street and mailing addresses of the health facility and the licensee, telephone numbers of the health facility and the licensee including area codes, fiscal year ending date, date when first patients are expected to be admitted, names of the owners having a five percent or more interest in the health facility, names of the chair and members of the governing body, and name of the individual in charge of the day–to–day operation of the health facility.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 127280, 128735, 128740, 128755 and 128760, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–93; operative 10–6–93 (Register 93, No. 37).
2. Editorial correction of printing error (Register 93, No. 51).
3. Change without regulatory effect amending NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

Article 2. Accounting System Requirements

§ 97015. Chart of Accounts.

(a) All hospitals shall use in their books of account the Chart of Accounts set forth in the "Accounting and Reporting Manual for California Hospitals," as specified by section 97018, except as provided herein. If individual requirements for information make further breakdown of an account necessary, hospitals may use subaccounts provided they can be combined into the prescribed account framework for reporting purposes.

(b) All long–term care facilities shall use in their books of account the Chart of Accounts set forth in the "Accounting and Reporting Manual for California Long–term Care Facilities" as specified by Section 97019, except as provided herein. If individual requirements for information make further breakdown of an account necessary, long–term care facilities may use subaccounts provided they can be combined into the prescribed account framework for reporting purposes.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128760, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former title 4, chapter 10 (sections 7015–7019) to title 22, division 7 (sections 97015–97019) filed 11–5–85; designated effective 1–1–86 (Register 85, No. 45). For prior history, see Register 83, No. 16.
2. Amendment filed 3–25–91; operative 4–24–91 (Register 91, No. 16).
3. Amendment of subsection (b) filed 9–7–93; operative 10–6–93 (Register 93, No. 37).
4. Change without regulatory effect amending NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

§ 97016. Accrual Accounting.

A full accrual basis of accounting for revenue and expenses is required for all health facilities. Revenues shall be given recognition in the period during which the service is provided. Except as may be provided in the long–term care manual prescribed by Section 97019, patient revenue shall be recorded at the full established rates regardless of the amounts actually paid to the health facility by or on behalf of the patients. Revenue deductions in all health facilities shall be given accounting recognition in the same period that the related revenues are recorded. Health facility expenses shall be given recognition in the period in which there is (1) a direct identification or association with the revenue of the period, as in the case of services rendered to patients; (2) an indirect association with revenue of the period, as in the case of salaries or rent; or (3) a measurable expiration of asset costs even though not associated with the production of revenue for the current period, as in the case of losses from fire.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128760, Health and Safety Code.

HISTORY

1. Amendment filed 4–16–92; operative 5–18–92 (Register 92, No. 18).
2. Change without regulatory effect amending NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

§ 97017. Special Accounting Requirements and Account Codes.

(a) Health facilities shall segregate accounts between unrestricted funds and restricted funds. Within the restricted fund classification shall be such funds as specific purpose funds, endowment funds, plant replacement and expansion funds, and other special purpose funds.

(b) All hospitals shall use in their books and records the account coding structure specified in the "Accounting and Reporting Manual for California Hospitals" as specified by Section 97018.

(c) All long–term care facilities shall use in their books and records the account coding structure specified in the "Accounting and Reporting Manual for California Long–term Care Facilities," as specified by Section 97019.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128760, Health and Safety Code.

HISTORY

1. Amendment of subsection (c) filed 4–16–92; operative 5–18–92 (Register 92, No. 18).
2. Amendment of subsection (b) filed 9–7–93; operative 10–6–93 (Register 93, No. 37).

3. Change without regulatory effect amending NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

§ 97018. Accounting and Reporting Manual for California Hospitals.

(a) To assure uniformity of accounting and reporting procedures among California hospitals, the Office shall publish an "Accounting and Reporting Manual for California Hospitals," which shall be supplemental to the system adopted by this Chapter. The "Accounting and Reporting Manual for California Hospitals," Second Edition, amended July 26, 2003, shall not be published in full in the California Code of Regulations, but is hereby incorporated by reference. All hospitals must comply with systems and procedures detailed in the hospital manual. Copies of the "Accounting and Reporting Manual for California Hospitals" may be obtained from the Office at 818 K Street, Room 400, Sacramento CA 95814. The Office shall provide each new hospital with a copy of the hospital manual. The hospital manual published by the Office shall be the official and binding interpretations of accounting and reporting treatment within the hospital accounting and reporting system.

(b) Requests for modifications to the accounting and reporting systems as set forth by the hospital manual shall be filed as provided under Section 97050.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128760, Health and Safety Code.

HISTORY

1. Amendment of sections 2210.1, 2220.1, 2410.1 and 4020 of the "Accounting and Reporting Manual for California Hospitals" filed 8–7–86; effective thirtieth day thereafter (Register 86, No. 34).
2. Amendment of subsection (a) and "Accounting and Reporting Manual for California Hospitals," section 2420.2 (7140, 7150 and 7160), and editorial correction of subsections (b) and (c) filed 5–23–88; operative 6–22–88 (Register 88, No. 22).
3. Amendment filed 3–25–91; operative 4–24–91 (Register 91, No. 16).
4. Editorial correction of subsection (a) and NOTE (Register 91, No. 30).
5. Amendment of subsection (a) and Accounting and Reporting Manual for California Hospitals — First Edition filed 8–6–92; operative 9–7–92 (Register 92, No. 32).
6. Amendment of subsection (a) and Accounting and Reporting Manual for California Hospitals — Second Edition filed 8–6–92; operative 9–7–92 (Register 92, No. 32).
7. Amendment filed 9–7–93; operative 10–6–93 (Register 93, No. 37).
8. Amendment of section and Accounting and Reporting for California Hospitals — Second Edition filed 9–28–93; operative 10–28–93 (Register 93, No. 40).
9. Editorial correction filed 9–28–94 (Register 94, No. 39).
10. Amendment of subsection (a) and Accounting and Reporting Manual for California Hospitals — Second Edition filed 9–29–94; operative 10–31–94 (Register 94, No. 39).
11. Amendment of subsection (a) and Accounting and Reporting Manual for California Hospitals — Second Edition filed 3–1–95; operative 3–31–95 (Register 95, No. 9).
12. Amendment of subsection (a) and Accounting and Reporting Manual for California Hospitals—Second Edition filed 9–27–95; operative 10–27–95 (Register 95, No. 39).
13. Amendment of subsection (a) and Accounting and Reporting Manual for California Hospitals—Second Edition filed 11–5–96; operative 12–5–96 (Register 96, No. 45).
14. Editorial correction (Register 96, No. 50).
15. Editorial correction (Register 97, No. 19).
16. Amendment of subsection (a) and NOTE filed 9–22–98; operative 10–22–98 (Register 98, No. 39).
17. Amendment of subsection (a) and the *Accounting and Reporting Manual for California Hospitals* (incorporated by reference) filed 3–20–2000; operative 4–19–2000. Submitted to OAL for printing only (Register 2000, No. 12).
18. Amendment of the *Accounting and Reporting Manual for California Hospitals* (incorporated by reference) and amendment of section filed 6–26–2003; operative 7–26–2003 (Register 2003, No. 26).

§ 97019. Accounting and Reporting Manual for California Long–Term Care Facilities.

(a) To assure uniformity of accounting and reporting procedures among long–term care facilities, the Office shall publish an "Accounting and Reporting Manual for California Long–term Care Facilities," which will be supplemental to the system adopted by this Chapter. The "Accounting and Reporting Manual for California Long–term Care Facilities," Second Edition (Manual) as amended November 30, 2000, shall not be published in full in the California Code of Regulations, but is hereby incorporated by reference. All long–term care facilities must comply with the systems and procedures detailed in the Manual. Copies of the Manual may be obtained from the Office at 818 K Street, Room 400, Sacramento, CA 95814. The Office shall provide each new long–term care facility with a copy of the "Accounting and Reporting Manual for California Long–term Care Facilities." The Manual published by the Office shall be the official and binding interpretations of accounting and reporting treatment within the long–term care facility accounting and reporting system.

(b) Requests for modifications to the accounting and reporting systems as set forth by the Manual shall be filed as provided under Section 97050.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128760, Health and Safety Code.

HISTORY

1. Amendment of sections 2012, 2230 and 3230 of the "Accounting and Reporting Manual for California Long–Term Care Facilities" filed 7–28–86; effective thirtieth day thereafter (Register 86, No. 31).
2. Amendment of sections 1050, 1110, 2210.1, 2220.1, 3210.1 and 3220.1 of the "Accounting and Reporting Manual for California Long–Term Care Facilities" filed 8–7–86; effective thirtieth day thereafter (Register 86, No. 34).
3. Amendment of subsections (a) and (c) and sections 1050, 1110, 2210.1, 2210.2, 2220.1, 2220.4, 3210.1, 3210.2, 3220.1 and 3220.4 of the "Accounting and Reporting Manual for California Long–Term Care Facilities" filed 11–15–88; operative 12–15–88 (Register 88, No. 47).
4. Amendment of subsections (a) and (c) filed 4–16–92; operative 5–18–92 (Register 92, No. 18).
5. Amendment filed 9–7–93; operative 10–6–93 (Register 93, No. 37).
6. Editorial correction of printing errors (Register 93, No. 51).
7. Amendment of subsection (a) and Accounting and Reporting Manual for California Long–term Care Facilities — Second Edition filed 9–29–94; operative 10–31–94 (Register 94, No. 39).
8. Amendment of subsection (a) and Accounting and Reporting Manual for California Long–Term Care Facilities — Second Edition filed 3–1–95; operative 3–31–95 (Register 95, No. 9).
9. Amendment of subsection (a) and Accounting and Reporting Manual for California Long–term Care Facilities — Second Edition (incorporated by reference) filed 9–7–95; operative 10–7–95 (Register 95, No. 36).
10. Amendment of subsection (a) and Accounting and Reporting Manual for California Long–Term Care Facilities—Second Edition (incorporated by reference) filed 7–22–96 as an emergency; operative 7–22–96 (Register 96, No. 30). A Certificate of Compliance must be transmitted to OAL by 11–19–96 or emergency language will be repealed by operation of law on the following day.
11. Amendment of subsection (a) and Accounting and Reporting Manual for California Long–Term Care Facilities—Second Edition (incorporated by reference) filed 12–2–96 as an emergency; operative 12–2–96 (Register 96, No. 49). A Certificate of Compliance must be transmitted to OAL by 4–1–97 or emergency language will be repealed by operation of law on the following day.
12. Amendment of subsection (a) and Accounting and Reporting Manual for California Long–Term Care Facilities—Second Edition (incorporated by reference) filed 12–11–96; operative 1–10–97 (Register 96, No. 50).
13. Editorial correction of HISTORY 10 (Register 96, No. 51).
14. Certificate of Compliance as to 7–22–96 order transmitted to OAL 11–4–96 and filed 12–17–96 (Register 96, No. 51).
15. Certificate of Compliance as to 12–2–96 order transmitted to OAL 3–27–97 and filed 5–8–97 (Register 97, No. 19).
16. Amendment filed 10–1–98; operative 10–31–98 (Register 98, No. 40).
17. Amendment of subsection (a) filed 11–17–99; operative 12–17–99 (Register 99, No. 47).
18. Change without regulatory effect amending subsection (a) filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

§ 97020. Delayed Implementation of LTC Accounting Manual Second Edition.

NOTE: Authority cited: Section 443.45, Health and Safety Code. Reference: Section 443.34, Health and Safety Code.

HISTORY

1. New section filed 4–16–92; operative 5–18–92 (Register 92, No. 18).
2. Editorial correction of printing error in NOTE (Register 93, No. 51).
3. Repealer filed 10–1–98; operative 10–31–98 (Register 98, No. 40).

§ 97030. Failure to Meet Accounting Requirements.

(a) If the Office determines either by routine desk audit, on–site audit, or other means that a health facility is not substantially using on a day–to–day basis in its books and records the system of accounting prescribed by this Article, considering all modifications granted by the Office pursuant to Section 97050 and the special accounting provisions provided to health facilities by this Chapter and the Act, then the health facility shall be considered to be out of compliance with the prescribed system of accounting. If such a determination is made, the Office shall begin the following process:

(1) The Office shall notify the licensee at the mailing address of the health facility of the determination of noncompliance and the licensee shall have 90 days in which to file the following in writing with the Office:

(A) A copy of the health facility's current Chart of Accounts with account codes and titles certified by an official of the facility that it is the Chart of Accounts that is used on a day–to–day basis by the health facility and

(B) A detailed plan of action for the health facility to come into full compliance with the Office's specified system of accounting, including the planned date of implementation.

(2) The Office shall have 30 days from receipt of the Chart of Accounts and the plan of action required in (a)(1)(A) and (B) of this Section in which to review and respond in writing to the licensee regarding acceptance or rejection of the filed Chart of Accounts and plan of action.

(3) If the proposed plan of action is not approved by the Office, then the licensee shall be notified at the mailing address of the health facility that the licensee has a maximum of 30 days in which to file a revised plan of action.

(4) The Office shall have 30 days from receipt of the revised plan of action in which to review and respond in writing to the licensee regarding the revised plan's approval. With approval, the Office shall include a modification consistent with the approved plan of action.

(5) If the licensee fails to meet either of the deadlines established in (a)(1) or (a)(3), then the licensee shall be liable for a civil penalty, to be assessed and recovered in a civil action brought in the name of the people of the State of California by the Office, of one hundred dollars ($100) a day for each day either deadline is missed. For each determination of non–compliance described in this subsection, the total amount the health facility can be penalized is not to exceed five thousand dollars ($5,000). Within fifteen days after a penalty begins to accrue, the Office shall notify the licensee at the mailing address of the health facility of the penalty accrual and potential liability. The notification will include the licensee's right to appeal the penalty pursuant to Section 97052.

(b) After a health facility has been determined to be non–compliant and has failed to develop an approved plan of action to implement the prescribed system of accounting, the health facility shall be liable for a penalty of five thousand ($5,000) each time the health facility files a report pursuant to either Section 128735(a) through (e) or Section 128740 of the Health and Safety Code. Within fifteen days after each penalty is determined, the Office shall notify the licensee at the mailing address of the health facility of the potential liability. The notification will include the licensee's right to appeal the penalty pursuant to Section 97052.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128735, 128740, 128760 and 128770, Health and Safety Code.

HISTORY

1. New section filed 9–7–93; operative 10–6–93 (Register 93, No. 37).
2. Change without regulatory effect amending subsection (b) and NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

Article 3. Reporting Requirements

§ 97040. Required Annual Reports.

(a) The licensee of each health facility, shall submit the following reports, except as provided in Section 97044, to the Office within four months after the end of each reporting period:

(1) A balance sheet for the unrestricted (general) funds.

(2) A balance sheet for the restricted funds.

(3) A statement of changes in equity (fund balances) for both unrestricted and restricted funds.

(4) A statement of income and expense.

(5) A statement of cash flows for the unrestricted funds.

(6) A cost finding report.

(7) A detailed statistical report.

(8) That data required for Medi–Cal cost reimbursement pursuant to Section 14170 of the Welfare and Institutions Code (skilled nursing, intermediate care and congregate living health facilities only).

(9) A statement detailing patient revenue by payor and revenue center except, that hospitals authorized to report as a group pursuant to subdivision (d) of section 128760 of the Health and Safety Code are not required to report by revenue center.

(10) And such other reports and worksheets as the Office enacts through the regulation process to constitute accurate and sufficiently detailed statistical reports and to enable proper completion of the above reports as set forth in the Office's "Accounting and Reporting Manual for California Hospitals," as specified in Section 97018, and the Office's "Accounting and Reporting Manual for California Long–Term Care Facilities," as specified in Section 97019.

(b) A reporting period ends:

(1) at the close of the health facility's annual accounting period (fiscal year),

(2) on the last day of patient care when the health facility no longer accepts patients,

(3) on the last day of patient care at the old facility when the health facility closes to relocate to a new facility,

(4) on the last day of licensure of the entity relinquishing the license when there is a change in licensee, or

(5) on the last day of patient care when the license is placed in suspense.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128735 and 128740, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former title 4, chapter 10 (sections 7040–7045) to title 22, division 7 (sections 97040–97045) filed 11–5–85; designated effective 1–1–86 (Register 85, No. 45). For prior history, see Register 83, No. 16.
2. Amendment filed 3–25–91; operative 4–24–91 (Register 91, No. 16).
3. Editorial correction of printing error in subsections (a), (b)(3) and (4) (Register 91, No. 32).
4. Amendment of subsections (a)(1), (a)(3) and (a)(10) filed 4–16–92; operative 5–18–92 (Register 92, No. 18).
5. Amendment of section and NOTE filed 9–7–93; operative 10–6–93 (Register 93, No. 37).
6. Editorial correction of printing errors in subsections (a), (a)(8) and (a)(10) (Register 93, No. 51).
7. Change without regulatory effect amending subsection (a)(9) and NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

§ 97041. Report Procedure.

(a) Health facilities shall report to the Office on forms or other media prescribed by the Office.

(1) Health facilities shall file the annual reports required by subsections (a) through (e) of Section 128735, Health and Safety Code, with the Office in a standard electronic format as approved by the Office pursuant to subsection (4). Health facilities may file requests for modifications to this reporting requirement, as provided under Section 97050, where meeting this requirement would not be cost–effective for the facility.

(2) Hospitals shall file the quarterly reports required by Section 128740, Health and Safety Code, with the Office in a standard electronic format using the Internet Hospital Quarterly Reporting System available on Office's internet web site at: www.oshpd.state.ca.us/ihqrs. Hospitals must have internet access and use Microsoft Internet Explorer version 5.0 to use the Internet Hospital Quarterly Reporting System. Hospitals may file requests for modifications to this reporting requirement, as provided under Section 97050, where meeting this requirement would not be cost–effective for the hospital.

(3) To meet the requirement of subsection (1), health facilities shall use a program approved pursuant to subsection (4), which can be either a third–party program or their own program. Health facilities intending to use a third–party program are not required to notify the Office of that intent. The Office shall notify all health facilities and third parties with Office–approved electronic reporting programs of any change in the electronic reporting requirements. The Office shall maintain and make available a list of all programs approved pursuant to subsection (4).

(4) Programs to be used for filing reports in a standard electronic format pursuant to subsection (1) must be approved by the Office in advance and must meet the Office's specifications for electronic reporting, including dial–up via personal computer and personal computer diskettes.

To be approved, electronic reporting programs must be able to apply Office–specified edits to the data being reported and must be able to produce a standardized output file that meets the Office's specified electronic formats. Specifications for submitting hospital annual reports in a standard electronic format shall be provided by the Office upon request and shall include file and record formats, editing criteria, and test case requirements, as published by the Office in the July 2002 issue of "Instructions and Specifications for Developing Approved Software to Submit the California Hospital Annual Disclosure Report on Personal Computer Diskette," and herein incorporated by reference in its entirety. Specifications for submitting LTC facility annual reports in a standard electronic format shall be provided by the Office upon request and shall include file and record formats, editing criteria, and test case requirements, as published by the Office in the November 2001 issue of "Instructions and Specifications for Developing Approved Software to Submit the California Long–term Care Facility Integrated Disclosure & Medi–Cal Cost Report on Personal Computer (PC) Diskette," and herein incorporated by reference in its entirety. To obtain approval for an electronic reporting program, a request, together with the Office's specified test case and a signed statement certifying that the program includes all Office–specified edits, must be filed with the Office at 818 K Street, Room 400, Sacramento, CA 95814, at least 90 days prior to the end of the reporting period to which the program applies. The Office shall review the test case and respond within 60 days by either approving or disapproving the request. The Office may limit the approval of the electronic reporting program to a specified period of time or reporting period(s). If disapproved, the Office shall set forth the basis for a denial. The Office may seek additional information from the requestor in evaluating the request. Changes to the Office's electronic reporting specifications may require the programs used for filing reports in a standard electronic format to be re–approved.

(b) The Office shall develop forms and instructions related to their use, and related specifications for filing reports in an electronic format, and make such administrative revisions to the above items as may be necessary to assure uniform and appropriate reporting.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128680, 128730, 128735 and 128740, Health and Safety Code.

HISTORY

1. New subsections (a)(1)–(4) and amendment of subsection (b) filed 9–7–93; operative 10–6–93 (Register 93, No. 37).
2. Amendment of subsection (a)(4) filed 9–29–94; operative 10–31–94 (Register 94, No. 39).
3. Amendment of subsections (a)(1), (a)(2) and (a)(4) and amendment of NOTE filed 9–22–98; operative 10–22–98 (Register 98, No. 39).
4. Amendment of subsections (a)(2) and (a)(4) filed 6–26–2003; operative 7–26–2003 (Register 2003, No. 26).

§ 97042. Comparative Reports.

Each health facility, except for new health facilities, shall include prior year comparative figures when reporting balance sheet–unrestricted funds, balance sheet–restricted funds, statement of cash flows–unrestricted funds, and statement of income and expense.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128735, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–93; operative 10–6–93 (Register 93, No. 37).
2. Change without regulatory effect amending NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

§ 97043. Form of Authentication.

Each health facility report as specified by Sections 128735(a) through (e) and Section 128740 of the Health and Safety Code will be accompanied by a statement of authentication signed by a duly authorized official of the health facility that certifies under penalty of perjury that, as applicable, the Office of Statewide Health Planning and Development's accounting and reporting system as set forth in either the Office's "Accounting and Reporting Manual for California Hospitals" or "Accounting and Reporting Manual for California Long–term Care Facilities" has been implemented by the health facility; that the data in the accompanying report are based on the appropriate system; and that to the best of the official's knowledge and information, each statement and amount in the accompanying report is believed to be true and correct.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128735, 128740 and 128760, Health and Safety Code; and Section 14107.4, Welfare and Institutions Code.

HISTORY

1. Amendment filed 9–7–93; operative 10–6–93 (Register 93, No. 37).
2. Editorial correction of printing error (Register 93, No. 51).
3. Change without regulatory effect amending section and NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

§ 97044. Exceptions to Required Reports.

County hospitals and State health facilities not operating under an enterprise system of accounting are not required to submit balance sheet statements, statement of changes in equity, or a statement of cash flows. However, all County and State health facilities are encouraged to move toward full compliance with all regulatory reporting requirements.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128735, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–93; operative 10–6–93 (Register 93, No. 37).
2. Change without regulatory effect amending NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

§ 97045. Failure to File Required Reports.

Any health facility which does not file with the Office any report completed as required by this Article is liable for a civil penalty of one hundred dollars ($100) a day to be assessed and recovered in a civil action brought in the name of the people of the State of California by the Office for each day the filing of such report with the Office is delayed, considering all approved extensions of the due date as provided in Section 97051. Assessed penalties may be appealed pursuant to Section 97052. Within fifteen days after the date the reports are due, the Office shall notify the health facility of reports not yet received, the amount of liability, and potential future liability for failure to file said reports when due.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128770 and 128760, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–93; operative 10–6–93 (Register 93, No. 37).
2. Change without regulatory effect amending NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).
3. Amendment of section and NOTE filed 9–23–2003; operative 9–23–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).

Article 4. Modification, Extension, and Appeal Processes

§ 97050. Request for Modifications to Approved Accounting and Reporting Systems.

(a) To obtain modifications to the uniform accounting and reporting systems specified by Sections 97017, 97018, and 97019, including modifications to the account coding structure, health facilities must file a written request for modifications with the Office. Health facilities must have an Office–approved modification prior to implementation of any change to the applicable uniform accounting system. Modification requests shall specify the precise changes being requested and the reason(s) the changes are needed. Requests from health facilities for modification to the applicable uniform accounting system, including requests to use an alternate coding scheme, shall be accompanied by (1) a cross reference between the facility's proposed account codes and titles, and the account codes and titles in the applicable accounting and reporting manual and (2) the facility's account definitions. The Office shall either approve or disapprove requests for modification within 60 days of the date the request was filed with the Office by the health facility, or the request shall be considered approved as submitted. However, if additional information is required from the health facility to evaluate the request, the Office shall have 30 days from the receipt of the additional information to approve or disapprove the request. The Office may also seek additional information from other appropriate sources to evaluate the request. Approved requests for systems modifications are subject to annual review and renewal by the Office.

(b) The Office shall grant modifications upon written application to licensed health facilities that are an integral part of a residential care complex to permit accounting and reporting for assets, liabilities, and equity for the entire residential care complex rather than require separate accounting and reporting for health care related assets, liabilities, and equity. Requests for modifications under this paragraph shall be submitted prior to the start of the accounting period to which the modifications are to apply and shall specify the proposed balance sheet account related modifications.

(c) The Office may grant modifications, upon written request, to licensees operating and maintaining more than one physical plant on separate premises under a single consolidated hospital license, issued pursuant to Health and Safety Code Section 1250.8, to file separate annual disclosure reports and quarterly financial and utilization reports for each location. The Office may also grant modifications, upon written request, to licensees of hospitals to file annual disclosure reports and quarterly financial and utilization reports for their mental health or rehabilitation care operations separately from the rest of the hospital operations. Licensees granted modifications under this paragraph shall be responsible for all regulatory requirements for each separate report. Separate extension requests, filed under the provisions of Section 97051, shall be required for each report, and penalties, assessed pursuant to Section 97045, shall be assessed on each delinquent report.

(d) In determining what modifications will be granted to health facilities under (a) or (c), the Office may take into account, but not be limited to the following factors:

(1) the data reported are comparable to data reported from other health facilities to the maximum extent feasible as determined by the Office;

(2) the report substantially complies with the purposes of the Health Data and Advisory Council Consolidation Act;

(3) the facility has considered and has a plan for the eventual or gradual implementation of the general accounting and reporting systems prescribed by the Office; and

(4) the burden on the health facility to report otherwise required data is sufficiently great that the cost to the health facility of preparing these data would outweigh the benefit to the people of the State of California.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128760, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former title 4, chapter 10 (sections 7050–7052) to title 22, division 10 (sections 97050–97052) filed 11–5–85; designated effective 1–1–86 (Register 85, No. 45). For prior history, see Register 83, No. 16.
2. Amendment of subsections (a) and (b) filed 4–16–92; operative 5–18–92 (Register 92, No. 18).
3. Amendment filed 9–7–93; operative 10–6–93 (Register 93, No. 37).
4. Editorial correction of printing error in subsection (b) (Register 93, No. 51).
5. Change without regulatory effect amending NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

§ 97051. Requests for Extension Time to File Required Reports.

Any licensee of a health facility may file with the Office requests for reasonable extensions of time to file any or all of the reports required pursuant to subdivisions (a) through (e) of Section 128735, Section 128740, or Section 128755, Health and Safety Code. Licensees of health facilities are encouraged to file extension requests as soon as it is apparent that the required reports will not be completed for submission on or before their due date. The requests for extension shall be supported by justification which may provide good and sufficient cause for the approval of the extension requests. To provide the Office a basis to judge good and sufficient cause, the letter of justification shall include a factual statement indicating (1) the actions taken by the health facility to produce the disclosure reports by the required deadline, (2) those factors which prevent completion of the reports by the deadline, and (3) those actions and the time (days) needed to accommodate those factors.

The Office shall respond within 10 calendar days of receipt of the request by either granting what the Office determines to be a reasonable extension or disapproving the request. If disapproved, the Office shall set forth the basis for a denial in a notice sent by certified mail to the health facility. The Office may seek additional information from the requesting health facility. The Office may grant extensions but not to exceed an accumulated total, for all extensions and corrections, of 90 days for annual reports required by Section 97040 and 30 days for quarterly reports required by Health and Safety Code Section 128740. A health facility which wishes to contest any decision of the Office shall have the right to appeal in accordance with the provisions of Section 97052.

The civil penalty of one hundred dollars ($100) a day, provided for in Section 97045, shall commence the day after the report due date notwithstanding the filing of a petition to review the Office's denial of a request for an extension of time in which to file required reports or the filing of a request for an extension of time in which to file required reports.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128755 and 128770, Health and Safety Code.

HISTORY

1. Amendment filed 9–7–93; operative 10–6–93 (Register 93, No. 37).
2. Change without regulatory effect amending section and NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

§ 97052. Appeal Procedure.

(a) Any health facility affected by any determination made under the Act by the Office may appeal the decision. This appeal shall be filed with the Office within 15 business days after the date the notice of the decision is received by the health facility and shall specifically describe the matters which are disputed by the petitioner.

(b) A hearing on an appeal shall, at the discretion of the Director, be held before any one of the following:

(1) An employee of the Office appointed by the Director to act as hearing officer.

(2) A hearing officer employed by the Office of Administrative Hearings.

(3) A committee of the Commission chosen by the chairperson for this purpose.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128775, Health and Safety Code.

HISTORY

1. Repealer and new section filed 4–9–87; effective thirtieth day thereafter (Register 87, No. 15). For prior history, see Register 85, No. 45.
2. Editorial correction of printing error in subsection (a) (Register 91, No. 32).
3. Amendment filed 9–7–93; operative 10–6–93 (Register 93, No. 37).
4. Change without regulatory effect amending NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

§ 97053. Conduct of Hearing.

(a) The hearing, when conducted by an employee of the Office appointed by the Director to serve as hearing officer or by a committee of the Commission, shall not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs.

(b) When the hearing is conducted by an employee of the Office or by a committee of the Commission, the hearing shall be recorded by a tape recording, unless the appellant agrees to provide a certified shorthand reporter at the appellant's expense. If the appellant provides a certified shorthand reporter, the original of the transcript shall be provided directly to the Office.

(c) A copy of the tape recording or of the transcript, if made, shall be available to any person so requesting who has deposited with the Office an amount of money which the Director has determined to be sufficient to cover the costs of the copy of the tape recording or transcript.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128775, Health and Safety Code.

HISTORY

1. New section filed 4–9–87; effective thirtieth day thereafter (Register 87, No. 15).
2. Change without regulatory effect amending NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

§ 97054. Decision on Appeal.

(a) The employee, hearing officer, or committee shall prepare a recommended decision which includes findings of fact and conclusions of law.

(b) This proposed decision shall be presented to the Office for its consideration.

(c) The Office may adopt the proposed decision, or reject it and decide the matter as described in paragraph 1 below.

(1) If the Office does not adopt the proposed decision as presented, it will furnish a Notice of Rejection of Proposed Decision along with a copy of the proposed decision to appellant and, if applicable, appellant's authorized representative. The Office will provide appellant the opportunity to present written arguments to the Office. The decision of the Office will be based on the record, including the hearing record, and such additional information as is provided by the appellant.

(d) The decision of the Office shall be in writing. It shall be made within 60 calendar days after the conclusion of the hearing and shall be final.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128775, Health and Safety Code.

HISTORY

1. New section filed 4–9–87; effective thirtieth day thereafter (Register 87, No. 15).
2. Change without regulatory effect amending NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

Article 5. Collection of Special Fees

§ 97062. Notice of Assessment.

The Office shall mail a notice of special fee assessment and a remittance advice form to each health facility immediately after the assessment rate is set by the Office. The remittance advice form shall be completed by each health facility and returned to the Office with full payment of the special fee amount.

[The next page is 1237.]

NOTE: Authority cited: Sections 127150 and 128810, Health and Safety Code. Reference: Section 127280, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former title 4, chapter 10 (sections 7062–7065) to title 22, division 7 (sections 97062–97065) filed 11–5–85; designated effective 1–1–86 (Register 85, No. 45). For prior history, see Register 83, No. 16.
2. Amendment of section and NOTE filed 9–7–93; operative 10–6–93 (Register 93, No. 37).
3. Change without regulatory effect amending NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

§ 97063. Basis of Assessment.

The basis of assessment is the total gross operating expenses obtained from the disclosure reports filed for the report period which ended on or before June 30 of the previous calendar year, as more particularly described in Section 97005(h).

NOTE: Authority cited: Sections 127150 and 128810, Health and Safety Code. Reference: Section 127280, Health and Safety Code.

HISTORY

1. Amendment of section and NOTE filed 9–7–93; operative 10–6–93 (Register 93, No. 37).
2. Change without regulatory effect amending NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

§ 97064. Exceptions to the Basis of Assessment.

(a) New health facilities which have no fiscal years ending on or before June 30 of the preceding calendar year are not liable for the special fee.

(b) New health facilities which have a fiscal year ending during the twelve month period preceding and including June 30 of the previous calendar year but which is less than 12 months, shall be liable for the special fee based on the gross operating expenses of the partial fiscal year.

(c) If a health facility does not have a fiscal year ending during the twelve month period preceding and including June 30 of the previous calendar year due to a change in licensee, the special fee shall be based on the gross operating expenses of the previous licensee's last completed fiscal year, expanded to 12 months if applicable. If the gross operating expenses of the previous licensee's last fiscal year are not available to the current licensee, the special fee shall be the last special fee paid by the previous licensee plus ten percent. The Office shall furnish the amount of the last special fee paid by the previous licensee upon request of the affected health facility.

(d) If a health facility does not have a complete fiscal year ending during the twelve month period preceding and including June 30 of the previous calendar year due to a change in licensee, the special fee shall be based on the gross operating expenses of the partial fiscal year expanded to 12 months. The partial fiscal year is those months from the start of health facility operations under the new licensee to the end of the fiscal year.

(e) If a health facility does not have a complete fiscal year ending during the 12 month period preceding and including June 30 of the previous calendar year due to a change in fiscal year, the special fee shall be based on the gross operating expenses of the partial fiscal year expanded to 12 months. The partial fiscal year is those months from the close of the last complete fiscal year to the end of the new partial fiscal year.

(f) The Office shall determine the basis of assessment for special fee amounts due from health facilities in those circumstances not specifically covered above.

NOTE: Authority cited: Sections 127150 and 128810, Health and Safety Code. Reference: Section 127280, Health and Safety Code.

HISTORY

1. Amendment of section and NOTE filed 9–7–93; operative 10–6–93 (Register 93, No. 37).
2. Change without regulatory effect amending NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

§ 97065. Delinquent Special Fees.

To enforce payment of delinquent special fees, the Office shall notify the State Department of Health Services not to issue a license and not to renew the existing license of the delinquent health facility until the special fees have been paid, pursuant to Section 127280, Health and Safety Code. A copy of the Office notice to the State Department of Health Services shall be sent to the delinquent health facility.

NOTE: Authority cited: Sections 127150 and 128810, Health and Safety Code; and Section 11152, Government Code. Reference: Section 127280, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section and NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

Article 6. Public Availability of Disclosure Materials

§ 97110. Place and Time of Availability.

Copies of available disclosure materials may be inspected by and copied for any person upon request during regular business hours at the Office of Statewide Health Planning and Development in Sacramento.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128680 and 128765, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former Title 4, Chapter 10 (Sections 7110, 7115 and 7125) to Title 22, Division 7 (Sections 97110, 97115 and 97125) filed 11–5–85; designated effective 1–1–86 (Register 85, No. 45). For prior history, see Register 78, No. 40.
2. Change without regulatory effect amending NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

§ 97115. Manner of Requesting Disclosure Materials.

(a) Requests for disclosure materials shall be filed in writing with the Office. A request shall contain sufficient information to enable the Office to determine what specific materials are being requested.

(b) No disclosure materials shall be provided, except as may be specifically authorized by the Director, without prior payment of a fee sufficient to cover costs of production and provision of the materials.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128680 and 128765, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

§ 97125. Protection of Records.

(a) No person may, without permission of the Office, remove from the Office any disclosure materials made available for inspection or copying.

(b) Only photocopies of the original disclosure materials shall be available for public inspection except as authorized by the Director.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128680 and 128765, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending NOTE filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).

Article 7. CABG Data Reporting Requirements

§ 97170. Definitions, as Used in this Article.

(a) California CABG Outcomes Reporting Program (CCORP). California CABG Outcomes Reporting Program means the Office's program charged with collecting coronary artery bypass graft (CABG) surgery data and publishing reports on the risk–adjusted outcomes for the procedure.

(b) Computer system date. Computer system date means the date that exists on the computer system used for data automation at the time of data entry.

(c) Coronary artery bypass graft (CABG) surgery. CABG surgery means a procedure performed to bypass blockages or obstructions of the coronary arteries, and includes both isolated CABG surgeries and non–isolated CABG surgeries, as defined by Subsection (a)(2) of Section 97174.

(d) Days. Days are defined as calendar days unless otherwise specified.

(e) Designee. Designee means the person authorized by the Chief Executive Officer of the hospital to sign the CCORP Hospital Certification Form (OSH–CCORP 416 (New 10/02).

(f) Discharge. A discharge means a person who was formally admitted to a hospital as an inpatient for observation, diagnosis, or treatment, with the expectation of remaining overnight or longer, and who is released from the hospital under one of the following circumstances:

(1) is formally released from the care of the hospital and leaves the hospital,

(2) transfers within the hospital from one type of care to another type of care, as defined in Section 97212 of Title 22 of the California Code of Regulations, or

(3) has died.

(g) Facility identification number. Facility identification number means the unique six–digit number assigned to each hospital by the Office, pursuant to Section 97210 of Title 22 of the California Code of Regulations.

(h) Licensee. Licensee means an entity that has been issued a license to operate a hospital, as defined in the Health and Safety Code Section 128700.

(i) Record. Record means the set of data elements required to be reported for each CABG surgery, as set forth in Section 97174.

(j) Report. Report means the collection of all required records filed by a hospital for a reporting period, pursuant to Section 97172.

(k) Responsible surgeon. Responsible surgeon means the principle surgeon who performs a coronary artery bypass procedure. If a trainee performs this procedure, then the responsible surgeon is the physician responsible for supervising this procedure performed by the trainee. In situations in which a responsible surgeon cannot otherwise be determined, the responsible surgeon is the surgeon who bills for the coronary artery bypass procedure.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128745, Health and Safety Code.

HISTORY

1. New article 7 (sections 97170–97198) and section filed 4–29–2003; operative 4–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
2. Amendment of subsections (f)–(f)(1) filed 2–2–2006; operative 3–4–2006 (Register 2006, No. 5).

§ 97172. Required Reporting.

(a) A hospital where coronary artery bypass graft (CABG) surgery is performed shall file a report, as defined in Section 97005(j) of Title 22 of the California Code of Regulations, semiannually with the Office. This Section shall not apply to a hospital where all CABG surgeries performed are on patients under 18 years of age on the date of surgery.

(b) A report shall contain a record for each CABG surgery patient 18 years or older on the date of surgery who was discharged from the hospital during the reporting period, pursuant to Section 97176.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128745, Health and Safety Code.

HISTORY

1. New section filed 4–29–2003; operative 4–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
2. Amendment of subsection (a) filed 2–2–2006; operative 3–4–2006 (Register 2006, No. 5).

§ 97174. Required Data Elements.

(a) A hospital shall submit the following data elements for each CABG surgery according to the format, valid value, and definitions/descriptions listed herein:

(1) Medical Record Number:

(A) Format: Text (alphanumeric)

(B) Valid Values: Free text

(C) Definition/Description: Patient medical record number at the hospital where surgery was performed.

(2) Isolated CABG:

(A) Format: Text (alpha)

(B) Valid Values: Yes; No

(C) Definition/Description: Answer 'No' if any of the procedures listed in Subsection (a)(2)(C)(i) was performed during coronary artery bypass graft surgery.

(i) When any of the procedures listed in this Subsection is performed concurrently with the coronary artery bypass surgery, the surgery will be considered non–isolated and the data element coded 'No.' It is not possible to list all procedures because cases can be complex and clinical definitions are not always precise. When in doubt, the data abstractor should first seek an opinion from the responsible surgeon and then consult CCORP.

(a) Valve repairs or replacements

(b) Operations on structures adjacent to heart valves (papillary muscle, chordae tendineae, traebeculae carneae cordis, annuloplasty, infundibulectomy)

(c) Ventriculectomy

(d) Repair of atrial and ventricular septa, excluding closure of patent foramen ovale

(e) Excision of aneurysm of heart

(f) Head and neck, intracranial endarterectomy

(g) Other open heart surgeries, such as aortic arch repair, pulmonary endarterectomy

(h) Endarterectomy of aorta

(i) Thoracic endarterectomy (endarterectomy on an artery outside the heart)

(j) Heart transplantation

(k) Repair of certain congenital cardiac anomalies, excluding closure of patent foramen ovale (e.g., tetralology of fallot, atrial septal defect (ASD), ventricular septal defect (VSD), valvular abnormality)

(*l*) Implantation of cardiomyostimulation system (Note: Refers to cardiomyoplasty systems only; not other heart–assist systems such as pacemakers or internal cardiac defibrillators)

(m) Any aortic aneurysm repair (abdominal or thoracic)

(n) Aorta–subclavian–carotid bypass

(o) Aorta–renal bypass

(p) Aorta–iliac–femoral bypass

(q) Caval–pulmonary artery anastomosis

(r) Extracranial–intracranial (EC–IC) vascular bypass

(s) Coronary artery fistula

(t) Full surgical Maze procedures, surgical or catheter. Requires that the left atrium be opened to create the 'maze' with incisions. Does not include "mini" Maze procedures limited to pulmonary vein isolation and/or amputation of the left atrial appendage.

(u) Resection of a lobe or segment of the lung (e.g., lobectomy or segmental resection of lung). Does not include simple biopsy of lung nodule in which surrounding lung is not resected, biopsy of a thoracic lymph node, or excision or stapling of an emphysematous bleb.

(v) Mastectomy for breast cancer (not simple breast biopsy)

(w) Amputation of any extremity (e.g., foot or toe)

(ii) If a procedure listed in this subsection is performed concurrently with the coronary artery bypass surgery, the surgery will be considered an isolated CABG and the data element coded 'Yes,' unless a procedure listed in Subsection (a)(2)(C)(i) is performed during the same surgery. These particular procedures are listed because the Office has received frequent questions regarding their coding.

(a) Transmyocardial laser revascularization (TMR)

(b) Pericardiectomy and excision of lesions of heart

(c) Repair/restoration of the heart or pericardium

(d) Coronary endarterectomy

(e) Pacemakers

(f) Internal cardiac defibrillators (ICDs)

(g) Fem–fem cardiopulmonary bypass (a form of cardiopulmonary bypass that should not be confused with aortofemoral bypass surgery listed in Subsection (a)(2)(C)(i))

(h) Thymectomy

(i) Thyroidectomy

(3) Date of Surgery:

(A) Format: Date (mm/dd/yyyy)
(B) Valid Values: Between admission and computer system date
(C) Definition/Description: Patient date of surgery for the CABG procedure.
(4) Date of Birth:
(A) Format: Date (mm/dd/yyyy)
(B) Valid Values: Before computer system date
(C) Definition/Description: Patient date of birth.
(5) Patient Age:
(A) Format: Integer
(B) Valid Values: calculated by hospital
(C) Definition/Description: Patient age in years, at time of surgery. This should be calculated from the Date of Birth and the Date of Surgery, according to convention used in the USA (the number of birth date anniversaries reached by the date of surgery).
(6) Gender:
(A) Format: Text (alpha)
(B) Valid Values: Male; Female
(C) Definition/Description: Patient gender at birth. Gender must be present for Risk Models to activate.
(7) Race:
(A) Format: Text (alpha)
(B) Valid Values: Caucasian; Black; Hispanic; Asian; Native American; Other
(C) Definition/Description: Patient race or ethnicity as determined by the patient or family.
(8) Date of Discharge:
(A) Format: Date (mm/dd/yyyy)
(B) Valid Values: Between surgery and computer system date
(C) Definition/Description: Patient date of discharge. If the patient died in the hospital, the discharge date is the date of death.
(9) Discharge Status:
(A) Format: Text (alpha)
(B) Valid Values: Alive; Dead
(C) Definition/Description: Patient status upon discharge from the hospitalization in which surgery occurred.
(10) Date of Death:
(A) Format: Date (mm/dd/yyyy)
(B) Valid Values: Date of discharge or between date of discharge and computer system date
(C) Definition/Description: Patient date of death.
(11) Responsible Surgeon Name (3 separate fields):
(A) Format: Surgeon Last Name text (alpha)
Surgeon First Name text (alpha)
Surgeon Middle Initial (alpha)
(B) Valid Values: Free Text.
(C) Definition/Description: The responsible surgeon is the surgeon as defined in Section 97170.
(12) Responsible Surgeon California License Number:
(A) Format: Text (alphanumeric)
(B) Valid Values: Free text
(C) Definition/Description: California physician license number of responsible surgeon, assigned by the Medical Board of California of the Department of Consumer Affairs.
(13) Height (cm):
(A) Format: Numeric
(B) Valid Values: 20.0 – 251.0 cm
(C) Definition/Description: Height of the patient in centimeters.
(14) Weight (kg):
(A) Format: Numeric
(B) Valid Values: 10.0 – 250.0 kg
(C) Definition/Description: Weight of the patient in kilograms.
(15) Diabetes:
(A) Format: Text (alpha)
(B) Valid Values: Yes; No
(C) Definition/Description: The patient has a history of diabetes, regardless of duration of disease or need for anti–diabetic agents. Includes on–admission or preoperative diagnosis. Does not include gestational diabetes.
(16) Hypertension:
(A) Format: Text (alpha)
(B) Valid Values: Yes; No
(C) Definition/Description: The patient has a diagnosis of hypertension, documented by one of the following:
(i) Documented history of hypertension diagnosed and treated with medication, diet and/or exercise.
(ii) Blood pressure > 140 systolic or > 90 diastolic on at least 2 occasions.
(iii) Currently on antihypertensive medication.
(17) Peripheral Vascular Disease:
(A) Format: Text (alpha)
(B) Valid Values: Yes; No
(C) Definition/Description: The patient has a history at any time prior to surgery of Peripheral Vascular Disease, as indicated by claudication either with exertion or rest; amputation for arterial insufficiency; aorto–iliac occlusive disease reconstruction; peripheral vascular bypass surgery, angioplasty, or stent; documented abdominal aortic aneurysm (AAA), AAA repair, or stent; positive non–invasive testing documented. Does not include procedures such as vein stripping, carotid disease, or procedures originating above the diaphragm.
(18) Cerebrovascular Disease:
(A) Format: Text (alpha)
(B) Valid Values: Yes; No
(C) Definition/Description: The patient has a history at any time prior to surgery of Cerebrovascular Disease, documented by any one of the following: unresponsive coma > 24 hours; cerebrovascular accident (CVA) (symptoms > 72 hours after onset); reversible ischemic neurological deficit (RIND) (recovery within 72 hours of onset); transient ischemic attack (TIA) (recovery within 24 hours of onset); non–invasive carotid test with > 75% occlusion; or prior carotid surgery. Does not include neurological disease processes such as metabolic and/or anoxic ischemic encephalopathy.
(19) Cerebrovascular Accident:
(A) Format: Text (alpha)
(B) Valid Values: Yes; No
(C) Definition/Description: Has a history, at any time prior to surgery, of a central neurologic deficit persisting more than 72 hours. (i.e. extremity weakness or loss of motion, loss of consciousness, loss of speech, field cuts). Chart documentation of a prior diagnosis of CVA or stroke is sufficient.
(20) Cerebrovascular Accident Timing:
(A) Format: Text (alphanumeric)
(B) Valid Values: Recent (<=2 wk.); Remote (>2 wk.)
(C) Definition/Description: Events occurring within two weeks of the surgical procedure are considered recent (<=2 wk.); all others are considered remote (>2 wk.).
(i) Recent (<=2 wk.)
(ii) Remote (>2 wk.)
(21) Chronic Lung Disease:
(A) Format: Text (alpha)
(B) Valid Values: No; Mild; Moderate; Severe
(C) Definition/Description: If the patient has chronic lung disease, the severity level according to the following classification is:
(i) No: No chronic lung disease present.
(ii) Mild: Forced expiratory volume in one second (FEV1) 60% to 75% of predicted, and/or on chronic inhaled or oral bronchodilator therapy.
(iii) Moderate: FEV1 50–59% of predicted, and/or on chronic steroid therapy aimed at lung disease.

(iv) Severe: FEV1 <50% predicted, and/or room air partial pressure of exygen (pO2) <60 or room air partial pressure of carbon dioxide (pCO2) > 50.

(22) Immunosuppressive Treatment:

(A) Format: Text (alpha)

(B) Valid Values: Yes; No

(C) Definition/Description: Patient has used any form of immunosuppressive therapy (i.e., systemic steroid therapy) within 30 days preceding the operative procedure. Does not include topical applications and inhalers or one time systemic therapy.

(23) Hepatic Failure:

(A) Format: Text (alpha)

(B) Valid Values: Yes; No

(C) Definition/Description: The patient has cirrhosis or other liver disease and has a bilirubin greater than 2mg/dl and a serum albumin less than 3.5 grams/dl.

(24) Dialysis:

(A) Format: Text (alpha)

(B) Valid Values: Yes; No

(C) Definition/Description: The patient is currently undergoing dialysis.

(25) Last Creatinine Level Preop (mg/dl):

(A) Format: Numeric

(B) Valid Values: 0.1 – 30.0

(C) Definition/Description: The most recent creatinine level prior to day of surgery. A creatinine level should be collected on all patients for consistency, even if they have no prior history. A creatinine value is a high predictor of a patient's outcome and is used in the predicted risk models.

(26) Left Main Disease (% Stenosis):

(A) Format: Integer

(B) Valid Values: 0 – 100

(C) Definition/Description: Percentage of compromise of vessel diameter in any angiographic view.

(27) Number of Diseased Coronary Vessels:

(A) Format: Text (alpha)

(B) Valid Values: None; One; Two; Three

(C) Definition/Description: The number of major coronary vessel systems (Left anterior descending (LAD) system, Circumflex system, and/or Right system) with >=50% narrowing in any angiographic view. NOTE: Left main disease (>=50%) is counted as TWO vessels (LAD and Circumflex). For example, left main and right coronary artery (RCA) would count as three total.

(28) Mitral Insufficiency:

(A) Format: Text (alpha)

(B) Valid Values: None; Trivial; Mild; Moderate; Severe

(C) Definition/Description: Whether there is evidence of mitral valve regurgitation.

(29) Ejection Fraction Done:

(A) Format: Text (alpha)

(B) Valid Values: Yes; No

(C) Indicate whether the Ejection Fraction was measured prior to the induction of anesthesia.

(30) Ejection Fraction (%):

(A) Format: Integer

(B) Valid Values: 1–99

(C) Definition/Description: The percentage of blood emptied from the ventricle at the end of the contraction. Use the most recent determination prior to intervention.

(31) Ejection Fraction Method:

(A) Format: Text (alpha)

(B) Valid Values: LV Gram; Radionucleotide; Estimate; ECHO

(C) Definition/Description: Method of obtaining ejection fraction measurement information:

(i) LV Gram: Left Ventriculogram.

Radionucleotide: MUGA Scan.

(ii) Estimate: From other calculations, based upon available clinical data.

(iii) ECHO: Echocardiogram.

(32) Myocardial Infarction:

(A) Format: Text (alpha)

(B) Valid Values: Yes; No

(C) Definition/Description: Refers to any myocardial infarction (MI) in the past. For MIs prior to the current hospitalization for which detailed records are not available, chart documentation in which a clinician caring for the patient diagnosed an MI is sufficient. For MIs during the current hospitalization for which detailed records are available, conditions i and ii below must be met:

(i) The patient must have been diagnosed with a myocardial infarction (ST elevation or non ST elevation) by a clinician caring for patient.

(ii) At least 1 of the 3 following biochemical indicators for detecting myocardial necrosis must be present:

(a) Troponin T or I:

(1) Maximal concentration of troponin T or I exceeding the MI diagnostic limit (99th percentile of the values for a reference control group, as defined in Subsection (32)(C)(iii)) on at least one occasion during the first 24 hours after the index clinical event.

(b) CK–MB:

(1) Maximal value of CK–MB more than two times the upper limit of normal on at least one occasion during the first 24 hours after the index clinical event.

(2) Maximal value of CK–MB, preferable CK–MB mass, exceeding 99th percentile of the values for a reference control group, as defined in Subsection (32)(C)(iii), on two successive samples during the first 24 hours after the index clinical event.

(c) Total CK:

(1) In the absence of availability of a troponin or CK–MB assay, total CK more than two times the upper limit of normal (99th percentile of the values for a reference control group, as defined in Subsection (32)(C)(iii)), or the B fraction of CK may be employed, but these last two biomarkers are considerably less satisfactory than CK–MB.

(iii) Reference control values (MI diagnostic limit and upper limit of normal):

(a) Reference values must be determined in each laboratory by studies using specific assays with appropriate quality control, as reported in peer–reviewed journals. Acceptable imprecision (coefficient of variation) at the 99th percentile for each assay should be defined as less than or equal to 10 percent. Each individual laboratory should confirm the range of reference values in their specific setting.

(33) Myocardial Infarction Timing:

(A) Format: Text (alphanumeric)

(B) Valid Values: <=6 Hrs; >6 Hrs but <24 Hrs; 1– to 7 Days; 8– to 21 Days; >21 Days.

(C) Definition/Description: Time period between the last documented myocardial infarction and the CABG surgery in hours (Hrs) and days.

(34) Arrhythmia:

(A) Format: Text (alpha)

(B) Valid Values: Yes; No

(C) Definition/Description: Whether there is a history of preoperative arrhythmia (sustained ventricular tachycardia, ventricular fibrillation, atrial fibrillation, atrial flutter, third degree heart block) that has been clinically documented or treated with any of the following treatment modalities within two weeks prior to the CABG surgery:

(i) Ablation therapy

(ii) AICD

(iii) Pacemaker

(iv) Pharmachological treatment

(v) Electrocardioversion

(35) Arrhythmia Type:

(A) Format: Text (alpha)

(B) Valid Values: Sust VT/VF; Heart Block; AFib/Flutter; None

(C) Definition/Description: The type of arrhythmia present within two weeks prior to the procedure is:

(i) Sustained Ventricular Tachycardia or Ventricular Fibrillation requiring cardioversion and/or intravenous amiodarone.

(ii) Third degree Heart Block.

(iii) Atrial fibrillation/flutter requiring medication.

(iv) None.

(36) Cardiogenic Shock:

(A) Format: Text (alpha)

(B) Valid Values: Yes; No

(C) Definition/Description: The patient, at the time of procedure, is in a clinical state of hypoperfusion according to either of the following criteria:

(i) Systolic blood pressure (BP) < 80 and/or Cardiac Index (CI) < 1.8 despite maximnal treatment.

(ii) Intravenous inotropes and/or intra–aortic balloon pump (IABP) necessary to maintain Systolic BP > 80 and/or CI > 1.8.

(37) Angina:

(A) Format: Text (alpha)

(B) Valid Values: Yes; No

(C) Definition/Description: The patient has ever had angina pectoris.

(38) Angina Type:

(A) Format: Text (alpha)

(B) Valid Values: Stable; Unstable

(C) Definition/Description: The type of angina present within 24 hours prior to the CABG surgery is:

(i) Stable: Angina not meeting unstable criteria below that is controlled by oral or transcutaneous medication.

(ii) Unstable: Requires continuous hospitalization from the episode until surgery and one of the following:

(a) Angina at rest.

(b) New onset angina in past 2 months of at least Canadian Cardiovascular Society (CCS) Class III.

(c) Increasing angina in past 2 months — angina that has become more frequent, longer in duration, or lower in threshold; and increased by greater than or equal to 1 CCS class to at least CCS Class III severity.

(39) Congestive Heart Failure:

(A) Format: Text (alpha)

(B) Valid Values: Yes; No

(C) Definition/Description: Indicate whether, within two weeks prior to the initial surgical procedure, a physician diagnosed that the patient is currently in congestive heart failure (CHF). CHF can be diagnosed based on careful history and physical exam, or by one of the following criteria:

(i) Paroxysmal nocturnal dyspnea (PND).

(ii) Dyspnea on exertion (DOE) due to heart failure.

(iii) Chest X–Ray (CXR) showing pulmonary congestion.

(iv) Pedal edema or dyspnea and receiving diuretics or digoxin.

(40) NYHA Classification:

(A) Format: Text (alpha)

(B) Valid Values: Class I; Class II; Class III; Class IV

(C) Definition/Description: New York Heart Association (NYHA) Classification represents the overall functional status of the patient in relationship to both congestive heart failure and angina. Code the highest level leading to episode of hospitalization and/or procedure.

(i) Class I = Patients with cardiac disease but without resulting limitation of physical activity. Ordinary physical activity does not cause undue fatigue, palpitation, dyspnea or anginal pain.

(ii) Class II = Patients with cardiac disease resulting in slight limitation of physical activity. They are comfortable at rest. Ordinary physical activity results in fatigue, palpitations, dyspnea or anginal pain.

(iii) Class III = Patients with cardiac disease resulting in marked limitation of physical activity. They are comfortable at rest. Less than ordinary physical activity results in fatigue, palpitations, dyspnea, or anginal pain.

(iv) Class IV = Patients with cardiac disease resulting in inability to carry on any physical activity without discomfort. Symptoms of cardiac insufficiency or of the anginal syndrome may be present even at rest. If any physical activity is undertaken, discomfort is increased.

(41) Resuscitation

(A) Format: Text (alpha)

(B) Valid Values: Yes; No

(C) Definition/Description: Indicate whether the patient required cardiopulmonary resuscitation within one hour before the start of the operative procedure.

(42) Incidence

(A) Format: Text (alpha)

(B) Valid Values: First cardiovascular surgery; First re–op cardiovascular surgery; Second re–op cardiovascular surgery; Third re–op cardiovascular surgery; Fourth or more re–op cardiovascular surgery

(C) Definition/Description: Whether this is the patient's:

(i) First cardiovascular surgery

(ii) First re–op cardiovascular surgery

(iii) Second re–op cardiovascular surgery

(iv) Third re–op cardiovascular surgery

(v) Fourth or more re–op cardiovascular surgery

(43) Previous CABG

(A) Format: Text (alpha)

(B) Valid Values: Yes; No

(C) Definition/Description: Indicate whether the patient had a previous Coronary Bypass Graft prior to the current admission.

(44) Prior Percutaneous Coronary Intervention (PCI):

(A) Format: Text (alpha)

(B) Valid Values: Yes; No

(C) Definition/Description: Indicate whether a previous Percutaneous Cardic Intervention (PCI) was performed any time prior to this surgical procedure. PCI refers to those treatment procedures that unblock narrowed coronary arteries without performing surgery. PCI may include, but is not limited to:

(i) Balloon Catheter Angioplasty, Percutaneous Transluminal Coronary Angioplasty (PTCA)

(ii) Rotational Atherectomy

(iii) Directional Atherectomy

(iv) Extraction Atherectomy

(v) Laser Atherectomy

(vi) Intracoronary Stent Placement

(45) PCI Interval:

(A) Format: Text (alphanumeric)

(B) Valid Values: <=6 Hours; >6 Hours

(C) Definition/Description: The interval of time between the previous PCI and the current surgical procedure:

(i) <=6 Hours

(ii) >6 Hours

(46) Status of the Procedure:

(A) Format: Text (alpha)

(B) Valid Values: Emergent Salvage; Emergent; Urgent; Elective

(C) Definition/Description: The status that best describes the clinical status of the patient at the time of surgery.

(i) Emergent Salvage: The patient is undergoing cardiopulmonary resuscitation en route to the operating room or prior to anesthesia induction.

(ii) Emergent: The patient's clinical status includes any of the following:

(b) Ischemic dysfunction (any of the following):

(2) Ongoing ischemia including rest angina despite maximal medical therapy (medical and/or intra–aortic balloon pump (IABP));

(3) Acute evolving Myocardial Infarction within 24 hours before surgery; or

(4) Pulmonary edema requiring intubation.

(b) Mechanical dysfunction (either of the following):

(1) Shock with circulatory support; or

(2) Shock without circulatory support.

(iii) Urgent: ALL of the following conditions are met:

(a) Not elective status
(b) Not emergent status
(c) Procedure required during same hospitalization in order to minimize chance of further clinical deterioration.
(d) Worsening, sudden chest pain; congestive heart failure (CHF); acute myocardial infarction (AMI); coronary anatomy; IABP; unstable angina (USA) with intravenous nitroglycerin; rest angina, valve dysfunction; or aortic dissection.
(iv) Elective: The patient's status has been stable in the days or weeks prior to the operation. The procedure could be deferred without increased risk of compromised cardiac outcome.
(47) CPB Utilization:
(A) Format: Text (alpha)
(B) Valid Values: None; Combination; Full
(C) Definition/Description: Indicate the level of CPB or coronary perfusion used during the procedure.
(i) None: no CPB or coronary perfusion used during the procedure
(ii) Combination:
Either a, b, or c has to occur:
(a) At start of procedure: No CPB/No coronary perfusion; followed by CPB
(b) At start of procedure: No CPB/No coronary perfusion; followed by coronary perfusion
(c) At start of procedure: No CPB/No coronary perfusion; followed by coronary perfusion; then convert to CPB
(ii) Full: CPB or coronary perfusion was used for the entire procedure.
(48) CPB Utilization–Combination:
(A) Format: Text (alpha)
(B) Valid Values: Planned; Unplanned
(C) Definition/Description: Whether the combination procedure was a planned or an unplanned conversion
(i) Planned: the surgeon intended to treat with any of the combination options described in "CPB utilization"
(ii) Unplanned: the surgeon did not intend to treat with any of the combination options described in "CPB utilization".
(49) Cardioplegia:
(A) Format: Text (alpha)
(B) Valid Values: Yes; No
(C) Definition/Description: Cardioplegia was used.
(50) Internal Mammary Artery(ies) Used as Grafts:
(A) Format: Text (alpha)
(B) Valid Values: Left IMA; Right IMA; Both IMAs; No IMA
(C) Definition/Description: Internal Mammary Artery(ies) (IMA) used for grafts, if any.
(i) Left IMA
(ii) Right IMA
(iii) Both IMAs
(iv) No IMA
(51) Radial Artery Used:
(A) Format: Text (alpha)
(B) Valid Values: No Radial; Left Radial; Right Radial; Both Radials
(C) Definition/Description: Indicate which radial artery(ies) was/were used for grafts:
(i) No radial artery
(ii) Left Radial artery
(iii) Right Radial artery
(iv) Both Radial arteries
(52) Reoperation for Bleed/Tamponade:
(A) Format: Text (alpha)
(B) Valid Values: Yes; No
(C) Definition/Description: Whether an operative re–intervention was required for bleeding/tamponade.
(53) Reoperation for Graft Occlusion:
(A) Format: Text (alpha)
(B) Valid Values: Yes; No
(C) Definition/Description: Whether an operative re–intervention was required for coronary graft occlusion.
(54) Deep Sternal Wound Infection
(A) Format: Text (alpha)
(B) Valid Values: Yes; No
(C) Definition/Description: Indicate whether patient had a deep sternal infection involving muscle, bone, and/or mediastinum REQUIRING OPERATIVE INTERVENTION that met ALL the following conditions:
(i) Wound was opened with excision of tissue (I&D) or re–exploration of mediastinum
(ii) Positive culture
(iii) Treatment with antibiotics
(55) Postoperative Stroke >72 hours:
(A) Format: Text (alpha)
(B) Valid Values: Yes; No
(C) Definition/Description: A central neurologic deficit persisting postoperatively for more than 72 hours.
(56) Continuous Coma >=24 hours:
(A) Format: Text (alpha)
(B) Valid Values: Yes; No
(C) Definition/Description: A new postoperative coma that persists for at least 24 hours secondary to anoxic/ischemic and/or metabolic encephalopathy, thromboembolic event or cerebral bleed.
(57) Prolonged Ventilation:
(A) Format: Text (alpha)
(B) Valid Values: Yes; No
(C) Definition/Description: Pulmonary insufficiency requiring a ventilator. Include (but not limited to) causes such as ARDS and pulmonary edema; also include any patient requiring mechanical ventilation for more than 24 hours postoperatively.
(58) Postoperative Renal Failure:
(A) Format: Text (alpha)
(B) Valid Values: Yes; No
(C) Definition/Description: Acute or worsening renal failure resulting in one or more of the following:
(i) Increase of serum creatinine to > 2.0 and 2x most recent preoperative creatinine level.
(ii) A new requirement of dialysis postoperatively.
(59) Facility Identification Number:
(A) Format: Text (numeric)
(B) Valid Values: Free Text
(C) Definition/Description: The six–digit facility identification number assigned by the Office, as defined in Section 97170.
(b) If a value for a data element, other than data elements specified in Subsection (b)(1), is unknown or not applicable, a hospital may submit the record without a value for that data element. The Office may require a hospital to provide data to replace missing data element values, pursuant to Section 97192.
(1) A valid value must be submitted for the following data elements: Facility Identification Number, Medical Record Number, Responsible Surgeon Name, Responsible Surgeon California License Number, Isolated CABG, Date of Surgery, Date of Discharge, Discharge Status, Gender, Status of the Procedure, Dialysis, and Prior PCI.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128745, Health and Safety Code.

HISTORY

1. New section filed 4–29–2003; operative 4–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
2. Amendment filed 2–2–2006; operative 3–4–2006 (Register 2006, No. 5).

§ 97176. Reporting Periods and Due Date.

(a) During each calendar year there are two reporting periods. The first reporting period is January 1 through June 30; the second period is July 1 through December 31.
(b) If there has been a change in the licensure of a hospital, the effective date of a change in licensee shall constitute the start of the reporting peri-

od for the new licensee, and this first reporting period shall end on June 30 or December 31, whichever occurs first. The final day of the reporting period for the previous licensee shall be the last day their licensure was effective.

(c) A hospital shall file a report by the date the report is due. The due date is 90 days after the end of a reporting period.

(d) When a report due date is a Saturday, Sunday, or a state observed holiday, a report shall be considered timely if filed on the next business day.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128745, Health and Safety Code.

HISTORY

1. New section filed 4–29–2003; operative 4–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).

§ 97178. Extensions to File Report.

(a) Extensions are available to a hospital that is unable to file a report by the due date. The Office shall grant in extensions no more than a cumulative total of 30 days per report.

(b) If a hospital files a report before the due date of an extension, the days not used will be applied to the number of remaining extension days for the report.

(c) The Office shall grant to a hospital one automatic extension of 10 days for a report that has not been filed by a due date established pursuant to Section 97176 or Subsection (b) of Section 97186, to the extent that extension time is available.

(d) In addition to the automatic extensions provided for in Subsection (c), a hospital may request extensions. A request for an extension shall be filed on or before the due date of a report and supported by a written justification that provides sufficient cause for the approval of the extension request. The Office may seek additional information from a requesting hospital. To provide the Office a basis to determine sufficient cause, a written justification shall include a factual statement indicating:

(1) the actions taken by the hospital to produce the report by the due date;

(2) those factors that prevent completion of the report by the due date; and

(3) the actions and the time (days) needed to accommodate those factors.

(e) The Office shall respond in writing by either granting a hospital what is determined to be a reasonable extension or disapproving the request. If a hospital has been granted an extension, the Office shall notify the hospital of the new due date for the report.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128745, Health and Safety Code.

HISTORY

1. New section filed 4–29–2003; operative 4–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
2. Amendment of subsection (a) filed 2–2–2006; operative 3–4–2006 (Register 2006, No. 5).

§ 97180. Method of Data Collection.

(a) A hospital shall use one of the following methods to collect the required data elements, as specified in Section 97174, for a report:

(1) The CCORP data collection tool for the report period,

(2) A National Society of Thoracic Surgeons (STS) approved software vendor tool developed for collection of CCORP data, or

(3) Another data collection system that generates an electronic report, which meets the data requirements in Section 97174 and the format specifications in Section 97182.

(b) A hospital not using the CCORP data collection tool shall submit to the Office a test report before it files its first report using an alternate system if any of the following conditions are met:

(1) there is a change in the data requirements in Section 97174 or in the format specifications in Section 97182

(2) the data collection tool used by the hospital has been modified by the vendor or is different from the one used in the prior data collection period, or

(3) a hospital using an STS approved software changes to a different STS software program.

(c)The test report should contain at least one record that meets the data requirements in Section 97174 and the format specifications in Section 97182. The hospital should provide the Office the test report 90 days prior to the due date for the hospital's next report. The Office will notify the hospital whether the submitted test report met the data requirements in Section 97174 and the format specifications in Section 97182.

(d) The Office shall furnish each hospital, upon request and at no cost, a copy of the CCORP data collection tool.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128745, Health and Safety Code.

HISTORY

1. New section filed 4–29–2003; operative 4–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
2. Amendment of subsections (a)(1) and (b), new subsections (b)(1)–(3), redesignation of portion of former subsection (b) as subsection (c), and subsection relettering filed 2–2–2006; operative 3–4–2006 (Register 2006, No. 5).

§ 97182. Report Format.

(a) A hospital shall file a report to the Office on one of the following media:

(1) IBM PC–compatible diskette, or

(2) compact disk (CD).

(b) A hospital shall file a report in a comma–delimited ASCII file with the following format specifications:

(1) Labels identifying each data element on the first data row, and

(2) Data elements listed in the order set forth in Section 97174.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128745, Health and Safety Code.

HISTORY

1. New section filed 4–29–2003; operative 4–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).

§ 97184. Report Acceptance Criteria.

The following requirements must be met for the Office to accept a report:

(a) The Office is able to read the diskette or compact disk (CD) on which the report is submitted.

(b) The diskette or CD contains data for only one hospital and one reporting period.

(c) All required completed and signed CCORP Surgeon Certification Forms are included with the report, pursuant to Section 97188.

(d) A completed and signed CCORP Hospital Certification Form is included with the report, pursuant to Section 97190.

(e) The facility identification number on each of the records in the report is consistent with the facility identification number specified on the CCORP Hospital Certification Form.

(f) The patient discharge date on each of the records in the report is consistent with the report period specified on the CCORP Hospital Certification Form.

(g) The report contains data for the specified reporting period, and contains the number of records stated on the CCORP Hospital Certification Form.

(h) Each record in the report contains data values for the data elements specified in Subsection (b)(1) of Section 97174.

(i) The report complies with the format specifications set forth in Sections 97182.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128745, Health and Safety Code.

HISTORY

1. New section filed 4–29–2003; operative 4–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
2. Amendment of subsections (c)–(d) filed 2–2–2006; operative 3–4–2006 (Register 2006, No. 5).

§ 97186. Report Acceptance or Rejection.

(a) The Office shall accept or reject each report within 60 days of receipt. A report shall be considered not filed on the date that a hospital receives notice from the Office that a report has been rejected.

(b) When the Office rejects a report upon initial submission by a hospital, the Office shall provide a hospital 10 days to resubmit the report. The Office shall notify a hospital of the new due date for the report.

(c) When the Office rejects a report a second or subsequent time, the Office may provide a hospital 5 days to resubmit the report. The Office shall notify a hospital of the new due date for the report.

(d) For additional time to resubmit a report, a hospital also may request extensions, pursuant to Section 97178.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128745, Health and Safety Code.

HISTORY

1. New section filed 4–29–2003; operative 4–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).

§ 97188. Surgeon Certification of Data.

(a) Each surgeon identified as a responsible surgeon in a report shall attest to the accuracy of the reported data for his or her CABG surgeries using the CCORP Surgeon Certification Form (OSH–CCORP 415 (Revised 05/05)).

(b) The CCORP Surgeon Certification Form (OSH–CCORP 415 (Revised 05/05)) shall include the following information: the surgeon's name, the surgeon's California physician license number, the hospital name, the facility identification number, as defined in Section 97170, the reporting period's beginning and ending dates, the number of records in the report, and the following Statement of Certification, to be signed by the surgeon:

I, (name of surgeon) , affirm that the cases assigned to me in this California CABG Outcomes Reporting Program report are accurate, and that I have reviewed these data for accuracy and completeness. I also understand that these data, after any corrections or revisions required by the Office of Statewide Health Planning and Development, will be used to compute my risk–adjusted mortality rate for coronary artery bypass graft surgery, and that the Office of Statewide Health Planning and Development will assign data elements with invalid or missing values the lowest risk value as observed in the most current risk–adjustment model for predicting mortality.

Name: .....
Address: .....
Telephone: .....
Email: .....
Signature: .....
Dated: .....

(c) The surgeon's name and physician license number specified on the CCORP Surgeon Certification Form (OSH–CCORP 415 (Revised 05/05)) shall be consistent with the surgeon's name and physician license number as provided in the submitted hospital records, and match the California Medical Board licensing information.

(d) If a responsible surgeon does not complete and sign a CCORP Surgeon Certification Form (OSH–CCORP 415 (Revised 05/05)), a hospital shall provide the surgeon's name, physician license number, and number of cases reported for the surgeon as part of the CCORP Hospital Certification Form (OSH–CCORP 416 (Revised 05/05)), pursuant to Section 97190.

(e) With a report, a hospital shall file with the Office all completed and signed CCORP Surgeon Certification Forms (OSH–CCORP 415 (Revised 05/05)).

(f) A hospital may obtain copies of the CCORP Surgeon Certification Form (OSH–CCORP 415 (Revised 05/05)) on the Office's web site or by contacting the Office.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128745, Health and Safety Code.

HISTORY

1. New section filed 4–29–2003; operative 4–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).

2. Amendment filed 2–2–2006; operative 3–4–2006 (Register 2006, No. 5).

§ 97190. Hospital Certification of Data.

(a) With a report, a hospital shall file with the Office a completed CCORP Hospital Certification Form (OSH–CCORP 416 (Revised 05/05)), including the following information: the hospital name, the facility identification number, as defined in Section 97170, the reporting period's beginning and ending dates, the number of records in the report, the data collection tool used (CCORP, Society of Thoracic Surgeons (including name of vendor), or other), the number of signed and complete CCORP Surgeon Certification Forms (OSH–CCORP 415 (Revised 05/05)) included with the report, the number of responsible surgeons who did not sign and complete a CCORP Surgeon Certification Form for the report, and the Statement of Certification, to be signed by the hospital's Chief Executive Officer or designee, as defined in Subsection (e) of Section 97170.

(b) If a responsible surgeon does not complete and sign a CCORP Surgeon Certification Form (OSH–CCORP 415 (Revised 05/05)) pursuant to Section 97188, a hospital shall provide the surgeon's name, physician license number, and number of cases reported for the surgeon on the CCORP Hospital Certification Form (OSH–CCORP 416 (Revised 05/05)), as part of the Statement of Certification. The surgeon's name and physician license number provided in the CCORP Hospital Certification Form (OSH–CCORP 416 (Revised 05/05)) shall be consistent with the surgeon's name and physician license number as submitted in the hospital report, and match the California Medical Board licensing information.

(c) If all responsible surgeons complete and sign a CCORP Surgeon Certification Form (OSH–CCORP 415 (Revised 05/05)) pursuant to Section 97188, a hospital shall affirm that no surgeons failed to complete and sign a CCORP Surgeon Certification Form by writing 'none' on the CCORP Hospital Certification Form (OSH–CCORP 416 (Revised 05/05)), as part of the Statement of Certification.

(d) The Statement of Certification, to be signed by the hospital's Chief Executive Officer (CEO) or designee shall state:

I, (name of CEO or designee), certify under penalty of perjury as follows: That I am an official of (name of hospital) and am duly authorized to submit this California CABG Outcomes Reporting Program report, and that, to the extent of my knowledge and information, the accompanying data are true and correct, and that the definitions of data elements as set forth in Section 97174 of Title 22 of the California Code of Regulations have been followed by this hospital.

I certify that the following surgeon(s), if any, did not complete a CCORP Surgeon Certification Form and that each was provided the data for the cases assigned to him or her in this California CABG Outcomes Reporting Program report and was given an opportunity to review the data for accuracy and completeness.

(Surgeon name) (California physician license number) (Number of cases reported)

I also certify that each surgeon(s) listed above was informed that the data for his or her cases, after any corrections or revisions required by the Office of Statewide Health Planning and Development, will be used to compute his or her risk–adjusted mortality rate for coronary artery bypass graft surgery, and that the Office of Statewide Health Planning and Development will assign data elements with invalid or missing values the lowest risk value as observed in the most current risk–adjustment model for predicting mortality.

Name: .....
Title: .....
Address: .....
Telephone: .....
Email: .....
Signature: .....
Dated: .....

(e) A hospital may obtain copies of the CCORP Hospital Certification Form (OSH–CCORP 416 (Revised 05/05)) on the Office's web site or by contacting the Office.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128745, Health and Safety Code.

HISTORY

1. New section filed 4–29–2003; operative 4–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
2. Amendment filed 2–2–2006; operative 3–4–2006 (Register 2006, No. 5).

§ 97192. Correction of Data.

(a) After a report has been accepted pursuant to Section 97186, a hospital may be required to provide the Office with data to replace invalid or missing data element values.

(b) The Office shall notify each hospital of its final opportunity to make corrections and revisions to submitted data at least 60 days before the Office conducts analyses to identify hospitals and surgeons for possible audit. From the date of notification, a hospital shall have 30 days to submit all corrections and revisions to the Office. The Office may require documentation to support data changes requested by a hospital.

(c) If a hospital fails to provide a valid value, as set forth in Section 97174, or provides no value for a data element in a record, by the end of the 30–day period, the Office shall assign the data element in the record the lowest risk value as observed in the most current risk adjustment model.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128745 and 128748, Health and Safety Code.

HISTORY

1. New section filed 4–29–2003; operative 4–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).

§ 97194. Audit Procedure.

(a) The Office may conduct periodic audits of a hospital's patient medical records for its CABG surgery patients. Audits may, at the Office's discretion, be performed at the hospital location.

(b) The Office shall notify a hospital a minimum of 2 weeks before the date of an audit. Upon notification that an audit is planned, a hospital shall designate a person to serve as the audit contact person. A hospital shall provide to the Office the contact person's name, title, telephone number, and electronic mail address.

(c) A hospital shall retrieve and make available the requested patient medical records for an audit, and if requested by the Office, provide a reasonable space in which the Office may conduct an audit.

(d) Data abstracted during an audit may, at the Office's discretion, replace data for a given record submitted in a report filed by a hospital. Replacement data shall be used in calculating risk–adjusted mortality rates for hospitals and physicians.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128745 and 128748, Health and Safety Code.

HISTORY

1. New section filed 4–29–2003; operative 4–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).

§ 97196. Hospital Data Contact Person.

(a) Each hospital at which CABG surgeries are performed shall designate a CCORP data contact person. A hospital shall notify CCORP in writing (hardcopy or electronic mail) within 30 days of the effective date of this regulation or within 30 days of beginning or resuming operation. A notification shall include the designated person's name, title, telephone number(s), mailing address, and electronic mail address.

(b) A hospital shall notify CCORP in writing (hardcopy or electronic mail) within 30 days after any change in the person designated as the CCORP data contact person, or in the title, telephone number(s), mailing address, or electronic mail address, of the individual.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128745, Health and Safety Code.

HISTORY

1. New section filed 4–29–2003; operative 4–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).

§ 97198. *Failure to File a* CABG Report.

(a) A civil penalty of one hundred dollars ($100) per day shall be assessed to a hospital that does not file a report as required by this Article by the date it is due. No penalty shall be imposed during an extension period as provided in Section 97178 or a resubmission period as provided in Section 97186.

(b) Within 15 days after the date a report is due, unless an extension has been granted as specified in Section 97178, the Office shall notify a hospital that has not filed its report of the penalties.

(c) Assessed penalties may be appealed pursuant to Section 97052 of Title 22 of the California Code of Regulations.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128745, Health and Safety Code.

HISTORY

1. New section filed 4–29–2003; operative 4–29–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
2. Amendment of subsection (b) filed 2–2–2006; operative 3–4–2006 (Register 2006, No. 5).

Article 8. Patient Data Reporting Requirements

§ 97210. Contact Person, User Account Administrator, Designated Agent, and Facility Identification Number.

(a) Each reporting facility shall designate a primary contact person and shall notify the Office's Patient Data Program in writing, by electronic mail or through the Medical Information Reporting for California (MIRCal) system of the designated person's name, title, telephone number(s), mailing address, and electronic mail address. The designated person will be sent time–sensitive electronic mail regarding the facility's data submission, including reminder notices, acceptance and rejection notifications, and extension information.

(b) Each reporting facility shall notify the Office's Patient Data Program in writing, by electronic mail, or through the MIRCal system within 15 days after any change in the person designated as the primary contact person, or in the designated primary person's name, title, telephone number(s), mailing address or electronic mail address.

(c) Each reporting facility beginning or resuming operations, whether in a newly constructed facility or in an existing facility, shall notify the Office's Patient Data Program in writing, by electronic mail or through the MIRCal system within 30 days after its first day of operation of the designated primary contact person and the facility administrator.

(d) Each reporting facility shall designate up to three User Account Administrators pursuant to Subsection (f) of Section 97246. Each reporting facility shall notify the Office's Patient Data Program in writing, by electronic mail or through the MIRCal system within 15 days after any change in a designated user account administrator's name, title, telephone number(s), mailing address, or electronic mail address.

(e) Each reporting facility may submit its own data report to the Office's Patient Data Program, or it may designate an agent for this purpose. The reporting facility shall be responsible for ensuring compliance with regulations and reporting requirements when an agent is designated pursuant to Subsection (b) of Section 97246.

(f) Each reporting facility shall be provided a facility identification number that shall be used to submit data to the Office.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128700, 128735, 128736 and 128737, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former title 4, chapter 10 (sections 7210–7216) to title 22, division 7 (sections 97210–97216) filed 11–5–85; designated effective 1–1–86 (Register 85, No. 45). For prior history, see Register 85, No. 19.
2. Amendment of subsection (a) filed 7–30–86; effective thirtieth day thereafter (Register 86, No. 31).
3. Amendment of section heading and text filed 10–14–93; operative 11–15–93 (Register 93, No. 42).
4. Amendment of subsections (b) and (c) and NOTE filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
5. Amendment of subsections (b) and (c) filed 9–21–98; operative 10–21–98 (Register 98, No. 39).

6. Amendment of section heading and section filed 9–23–2003; operative 9–23–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).
7. Amendment of article heading, section and NOTE filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).
8. Amendment of subsection (a) filed 11–21–2006; operative 11–21–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 47).

§ 97211. Reporting Periods and Due Dates.

(a) The prescribed reporting periods are:

(1) Calendar semiannual for Hospital Discharge Abstract Data reports, which means that there are two reporting periods each year, consisting of discharges occurring January 1 through June 30 and discharges occurring July 1 through December 31.

(2) Calendar quarterly for Emergency Care Data reports, which means there are four reporting periods each year, consisting of encounters occurring January 1 through March 31, encounters occurring April 1 through June 30, encounters occurring July 1 through September 30, and encounters occurring October 1 through December 31.

(3) Calendar quarterly for Ambulatory Surgery Data reports, from a hospital or from a freestanding ambulatory surgery clinic, which means there are four reporting periods each year, consisting of encounters occurring January 1 through March 31, encounters occurring April 1 through June 30, encounters occurring July 1 through September 30, and encounters occurring October 1 through December 31.

(b) Where there has been a change in the licensee, the effective date of the change shall constitute the start of the reporting period for the new licensee. The end of the first reporting period for the new licensee shall be the end of the prescribed reporting period. The final day of the reporting period for the previous licensee shall be the last day their licensure was effective.

(c) Report due dates:

(1) For Hospital Discharge Abstract Data reports, for discharges occurring on or after January 1, 2003, and all subsequent report periods, the report due date shall be three months after the end of each reporting period; thus the due date for the January 1 through June 30 reports is September 30 of the same year and the due date for the July 1 through December 31 reports is March 31 of the following year.

(2) For Emergency Care Data reports, for encounters occurring on or after October 1, 2004, and all subsequent report periods, the report due date shall be 45 days after the end of each reporting period; thus the due date for the January 1 through March 31 reports is May 15 of the same year, the due date for the April 1 through June 30 reports is August 14 of the same year, the due date for the July 1 through September 30 reports is November 14 of the same year, and the due date for the October 1 through December 31 reports is February 14 of the following year.

(3) For Ambulatory Surgery Data reports, for encounters occurring on or after October 1, 2004, and all subsequent report periods, the report due date shall be 45 days after the end of each reporting period; thus the due date for the January 1 through March 31 reports is May 15 of the same year, the due date for the April 1 through June 30 reports is August 14 of the same year, the due date for the July 1 through September 30 reports is November 14 of the same year, and the due date for October 1 through December 31 reports is February 14 of the following year.

(d) Data reports shall be filed, as defined by Subsection (j) of Section 97005, by the date the data report is due. Where a reporting facility has been granted an extension, pursuant to Section 97241, the ending date of the extension shall constitute the new due date for that data report.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128735, 128736 and 128737, Health and Safety Code.

HISTORY

1. Repealer and new section filed 10–14–93; operative 11–15–93 (Register 93, No. 42). For prior history, see Register 86, No. 31.
2. Amendment of section and NOTE filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
3. Amendment filed 9–23–2003; operative 9–23–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).
4. Amendment of section and NOTE filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97212. Definitions, as Used in This Article.

(a) Ambulatory Surgery (AS) Data Record. The Ambulatory Surgery Data Record consists of the set of data elements related to an encounter, as specified in Subsection (a) of Section 128737 of the Health and Safety Code and as defined in Sections 97251–97265.

(b) CPT–4. The Current Procedural Terminology, 4th Edition, is published and maintained by the American Medical Association. It is a standard medical code set for healthcare services or procedures in non–inpatient settings.

(c) Days. Days, as used in this article, are defined as calendar days unless otherwise specified.

(d) Designated Agent. An entity designated by a reporting facility to submit that reporting facility's data records to the Office's Patient Data Program.

(e) Discharge. A discharge is defined as an inpatient who:

(1) is formally released from the care of the hospital and leaves the hospital, or

(2) is transferred within the hospital from one type of care to another type of care, as defined by Subsection (x) of Section 97212, or

(3) leaves the hospital against medical advice, without a physician's order or is a psychiatric patient who is discharged as away without leave (AWOL), or

(4) has died.

(f) DRG. Diagnosis Related Groups is a classification scheme with which to categorize inpatients according to clinical coherence and expected resource intensity, as indicated by their diagnoses, procedures, age, sex, and disposition, and was established and is revised annually by the U.S. Department of Health and Human Services (DHHS) Centers for Medicare and Medicaid Services (CMS), formerly known as the U.S. Health Care Financing Administration.

(g) Do Not Resuscitate (DNR) Order. A DNR order is a directive from a physician in a patient's current inpatient medical record instructing that the patient is not to be resuscitated in the event of a cardiac or pulmonary arrest. In the event of a cardiac or pulmonary arrest, resuscitative measures include, but are not limited to, the following: cardiopulmonary resuscitation (CPR), intubation, defibrillation, cardioactive drugs, or assisted ventilation.

(h) Emergency Care Data Record. The Emergency Care Data Record consists of the set of data elements related to an encounter, as specified in Subsection (a) of Section 128736 of the Health and Safety Code and as defined in Sections 97251–97265.

(i) Emergency Department (ED). Emergency Department means, in a hospital licensed to provide emergency medical services, the location in which those services are provided, as specified in Subsection (c) of Section 128700 of the Health and Safety Code. For the purposes of this chapter, this includes emergency departments providing standby, basic, or comprehensive services.

(j) Encounter. An encounter is a face–to–face contact between an outpatient and a provider.

(k) Error. Error means any record found to have an invalid entry or to contain incomplete data or to contain illogical data.

(*l*) Facility Identification Number. A unique six–digit number that is assigned to each facility and shall be used to identify the facility.

(m) Freestanding Ambulatory Surgery Clinic. Freestanding ambulatory surgery clinic means a surgical clinic that is licensed by the state under paragraph (1) of subdivision (b) of Section 1204 of the Health and Safety Code. This type of facility is commonly known as a freestanding ambulatory surgery center.

[The next page is 1239.]

(n) Hospital Discharge Abstract Data Record: The Hospital Discharge Abstract Data Record consists of the set of data elements related to a discharge, as specified in Subsection (g) of Section 128735 of the Health and Safety Code and as defined by Sections 97216–97233 for Inpatients.

(o) ICD–9–CM. The International Classification of Diseases, 9th Revision, Clinical Modification, published by the U.S. Department of Health and Human Services. Coding guidelines and annual revisions to ICD–9–CM are made nationally by the "cooperating parties" (the American Hospital Association, the Centers for Medicare and Medicaid Services, the National Center for Health Statistics, and the American Health Information Management Association).

(p) Inpatient. An inpatient is defined as a baby born alive in this hospital or a person who was formally admitted to the hospital for observation, diagnosis, or treatment, with the expectation of remaining overnight or longer.

(q) Licensee. Licensee means an entity that has been issued a license to operate a facility as defined by Subsection (e) or (g) of Section 128700 of the Health and Safety Code.

(r) MIRCal. MIRCal means the OSHPD Medical Information Reporting for California system that is the online transmission system through which reports are submitted using an Internet web browser either by file transfer or data entry. It is a secure means of electronic transmission of data in an automated environment and allows facilities to edit and correct data held in a storage database until reports meet or exceed the Approval Criteria specified in Section 97247.

(s) Outpatient. An outpatient means:

(1) a person who has been registered or accepted for care but not formally admitted as an inpatient and who does not remain over 24 hours, as specified in Subsection (a)(2) of Section 70053 of Title 22 of the California Code of Regulations, or

(2) a patient at a freestanding ambulatory surgery clinic who has been registered and accepted for care.

(t) Provider. A provider is the person who has primary responsibility for assessing and treating the condition of the patient at a given contact and exercises independent judgment in the care of the patient. This would include a practitioner licensed as a Medical Doctor (M.D.), a Doctor of Osteopathy, (D.O.), a Doctor of Dental Surgery (D.D.S.), or a Doctor of Podiatric Medicine (D.P.M.).

(u) Record. A record is defined as the set of data elements specified in Subsection (g) of Section 128735, Subsection (a) of Section 128736, or Subsection (a) of Section 128737 of the Health and Safety Code, for one discharge or for one encounter.

(v) Report. A report is defined as the collection of all Hospital Discharge Abstract Data Records, or all Emergency Care Data Records, or all Ambulatory Surgery Data Records required to be submitted by a reporting facility for one reporting period. A report contains only one type of record.

(w) Reporting Facility. Reporting facility means a hospital or a freestanding ambulatory surgery clinic required to submit data records, as specified in Subsection (g) of Section 128735, or Subsection (a) of Section 128736, or Subsection (a) of Section 128737 of the Health and Safety Code.

(x) Type of Care. Type of care in hospitals is defined as one of the following:

(1) Skilled nursing/intermediate care. Skilled nursing/intermediate care means inpatient care that is provided to inpatients occupying beds appearing on a hospital's license in the classifications of skilled nursing or intermediate care, as defined by paragraphs (2), (3), or (4) of Subdivision (a) of Section 1250.1 of the Health and Safety Code. Skilled nursing/intermediate care also means inpatient care that is provided to inpatients occupying general acute care beds that are being used to provide skilled nursing/intermediate care to those inpatients in an approved swing bed program.

(2) Physical rehabilitation care. Physical rehabilitation care means inpatient care that is provided to inpatients occupying beds included on a hospital's license within the general acute care classification, as defined by paragraph (1) of Subdivision (a) of Section 1250.1 of the Health and Safety Code, and designated as rehabilitation center beds, as defined by Subsection (a) of Section 70034 and by Section 70595 of Title 22 of the California Code of Regulations.

(3) Psychiatric care. Psychiatric care means inpatient care that is provided to inpatients occupying beds appearing on a hospital's license in the classification of acute psychiatric beds, as defined by paragraph (5) of Subdivision (a) Section 1250.1 of the Health and Safety Code, and psychiatric health facility, as defined by Subdivision (a) of Section 1250.2 of the Health and Safety Code.

(4) Chemical dependency recovery care. Chemical dependency recovery care means inpatient care that is provided to inpatients occupying beds appearing on a hospital's license as chemical dependency recovery beds, as defined by paragraph (7) of Subdivision (a) of Section 1250.1 of the Health and Safety Code and Subdivisions (a), (c), or (d) of Section 1250.3 of the Health and Safety Code.

(5) Acute care. Acute care, as defined by paragraph (1) of Subdivision (a) of Section 1250.1 of the Health and Safety Code, means all other types of inpatient care provided to inpatients occupying all other types of licensed beds in a hospital, other than those defined by paragraphs (1), (2), (3) and (4) of Subsection (x) of this section.

(y) User Account Administrator. A healthcare facility representative responsible for maintaining the facility's MIRCal user accounts and user account contact information.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 1250, 1250.1, 128700, 128735, 128736 and 128737, Health and Safety Code.

HISTORY

1. New section applicable to all discharges after December 31, 1996 filed 7–15–96; operative 8–14–96 (Register 96, No. 29).
2. Editorial correction of subsections (c)(2) and (g)(2) (Register 97, No. 19).
3. Amendment of section and NOTE filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
4. Repealer of version of section 97212 applicable through 12–31–96 and amendment of version of section applicable beginning 1–1–97 filed 9–21–98; operative 10–21–98 (Register 98, No. 39). For prior history see Register 97, No. 30.
5. Amendment filed 9–23–2003; operative 9–23–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).
6. Repealer and new section and amendment of NOTE filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).
7. Change without regulatory effect amending subsection (p) filed 8–11–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 32).

§ 97213. Required Reporting.

(a) (1) Hospital Discharge Abstract Data: Each hospital shall submit a hospital discharge abstract data record, as specified in Subdivision (g) of Section 128735 of the Health and Safety Code, for each inpatient discharged during the semiannual reporting period, according to the format specified in Subsection (a) of Section 97215 and by the dates specified in Subsection (c)(1) of Section 97211.

(2) Emergency Care Data: Each hospital shall submit an emergency care data record, as specified in Subsection (a) of Section 128736 of the Health and Safety Code, for each encounter during the quarterly reporting period, according to the format specified in Subsection (b) of Section 97215 and by the dates specified in Subsection (c)(2) of Section 97211. A hospital shall not report an Emergency Care Data Record if the encounter resulted in a same–hospital admission.

(3) Ambulatory Surgery Data: Each hospital and freestanding ambulatory surgery clinic shall submit an ambulatory surgery data record, as specified in Subsection (a) of Section 128737 of the Health and Safety Code, for each encounter during which at least one ambulatory surgery procedure is performed, during the quarterly reporting period, according to the format specified in Subsection (c) of Section 97215 and by the dates specified in Subsection (c)(3) of Section 97211. An ambulatory surgery procedure is defined by Subsection (a) of Section 128700 of the Health and Safety Code as those procedures performed on an outpatient basis in the general operating rooms, ambulatory surgery rooms, endoscopy units, or cardiac catheterization laboratories of a hospital or a freestanding ambulatory surgery clinic. A hospital shall not report an Ambu-

latory Surgery Data Record if the encounter resulted in a same–hospital admission.

(b) A hospital shall separately identify records of inpatients being discharged from the acute care type of care, as defined by paragraph (5) of Subsection (x) of Section 97212. The hospital shall identify these records by recording a "1" on each of these records as specified in the Format and Specifications for Online Transmission in Section 97215.

(c) A hospital shall separately identify records of inpatients being discharged from the skilled nursing/intermediate care type of care, as defined by paragraph (1) of Subsection (x) of Section 97212. The hospital shall identify these records by recording a "3" on each of these records as specified in the Format and Specifications for Online Transmission in Section 97215.

(d) A hospital shall separately identify records of inpatients being discharged from the psychiatric care type of care, as defined by paragraph (3) of Subsection (x) of Section 97212. The hospital shall identify these records by recording a "4" on each of these records as specified in the Format and Specifications for Online Transmission in Section 97215.

(e) A hospital shall separately identify records of inpatients being discharged from the chemical dependency recovery care type of care, as defined by paragraph (4) of Subsection (x) of Section 97212. The hospital shall identify these records by recording a "5" on each of these records as specified in the Format and Specifications for Online Transmissions in Section 97215.

(f) A hospital shall separately identify records of inpatients being discharged from the physical rehabilitation care type of care, as defined by paragraph (2) of Subsection (x) of Section 97212. The hospital shall identify these records by recording a "6" on each of these records as specified in the Format and Specifications for Online Transmissions in Section 97215.

(g) Licensees operating and maintaining more than one physical plant on separate premises under a single consolidated license who choose to file separate data reports for each location must request, in writing, a modification to file separate data reports for each location. A licensee granted a modification under this paragraph shall be responsible for all regulatory requirements for each separate report. Separate extension requests, filed under the provisions of Section 97241, shall be required for each report, and penalties, assessed pursuant to Section 97250, shall be assessed on each delinquent report.

NOTE: Authority cited: Section 128810 Health and Safety Code. Reference: Sections 128735, 128736 and 128737, Health and Safety Code.

HISTORY

1. New section applicable to all discharges after December 31, 1996 filed 7–15–96; operative 8–14–96 (Register 96, No. 29).
2. Editorial correction of subsection (d) (Register 97, No. 19).
3. Editorial correction of subsection (d) (Register 97, No. 30).
4. Amendment of section and NOTE filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
5. Repealer of version of section 97213 applicable through 12–31–96 and amendment of version of section 97213 applicable beginning 1–1–97 filed 9–21–98; operative 10–21–98 (Register 98, No. 39). For prior history see Register 97, No. 30.
6. Amendment filed 9–23–2003; operative 9–23–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).
7. Amendment of section and NOTE filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97214. Form of Authentication.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128735, Health and Safety Code.

HISTORY

1. New section applicable to all discharges after December 31, 1996 filed 7–15–96; operative 8–14–96 (Register 96, No. 29).
2. Amendment filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
3. Repealer of version of section 97214 applicable through 12–31–96 and amendment of version of section 97214 applicable beginning 1–1–97 filed 9–21–98; operative 10–21–98 (Register 98, No. 39). For prior history see Register 97, No. 30.
4. Repealer filed 9–23–2003; operative 9–23–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).

§ 97215. Format.

(a) Hospital Discharge Abstract Data reports for discharges occurring on or after January 1, 2005, shall comply with the Office's Format and File Specifications for MIRCal Online Transmission Patient Discharge Data, dated April 2004, and hereby incorporated by reference.

(b) Emergency Care Data reports for encounters occurring on or after January 1, 2005, shall comply with the Office's Format and File Specifications for MIRCal Online Transmission Emergency Care and Ambulatory Surgery Data, dated April 2004, and hereby incorporated by reference.

(c) Ambulatory Surgery Data reports for encounters occurring on or after January 1, 2005, shall comply with the Office's Format and File Specifications for MIRCal Online Transmission Emergency Care and Ambulatory Surgery Data, dated April 2004.

(d) The Office's Format and File Specifications for MIRCal Online Transmission as named in (a), (b), and (c) are available for download from the MIRCal website. The Office will make a hardcopy of either set of Format and File Specifications for MIRCal Online Transmission available to a reporting facility or designated agent upon request.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128735, 128736 and 128737, Health and Safety Code.

HISTORY

1. Amendment of subsections (c) and (d) filed 2–22–90; operative 3–24–90 (Register 90, No. 9).
2. Renumbering of former section 97215 to new section 97242 and new section 97215 filed 10–14–93; operative 11–15–93 (Register 93, No. 42).
3. Editorial correction of printing errors (Register 94, No. 17).
4. Amendment of first and second paragraphs filed 11–27–95; operative 1–1–96 (Register 95, No. 48).
5. Amendment of first three paragraphs and NOTE filed 7–15–96; operative 8–14–96 (Register 96, No. 29).
6. Amendment filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
7. Amendment filed 9–21–98; operative 10–21–98 (Register 98, No. 39).
8. Repealer and new section filed 9–23–2003; operative 9–23–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).
9. Amendment of section and NOTE filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97216. Definition of Data Element for Inpatients—Date of Birth.

The patient's birth date shall be reported in numeric form as follows: the 2–digit month, the 2–digit day, and the 4–digit year of birth. The numeric form for days and months from 1 to 9 must have a zero as the first digit. When the complete date of birth is unknown, as much of the date as is known shall be reported. At a minimum, an appropriate year of birth shall be reported. If only the age is known, the estimated year of birth shall be reported. If the month and year of birth are known, and the exact day is not, the year, the month, and zeros for the day shall be reported.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128735, Health and Safety Code.

HISTORY

1. Renumbering of former section 97216 to new section 97243 and new section 97216 filed 10–14–93; operative 11–15–93 (Register 93, No. 42).
2. Amendment of NOTE filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
3. Amendment filed 9–21–98; operative 10–21–98 (Register 98, No. 39).
4. Amendment of section heading filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97217. Definition of Data Element for Inpatients—Sex.

The patient's gender shall be reported as male, female, other or unknown. "Other" includes sex changes, undetermined sex and live births with congenital abnormalities that obscure sex identification. "Unknown" indicates that the patient's sex was not available from the medical record.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128735, Health and Safety Code.

HISTORY

1. New section filed 10–14–93; operative 11–15–93 (Register 93, No. 42).
2. Amendment of section and NOTE filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).

3. Amendment of section heading filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97218. Definition of Data Element for Inpatients—Race.

Effective with discharges on January 1, 1995, the patient's ethnic and racial background shall be reported as one choice from the following list of alternatives under ethnicity and one choice from the following list of alternatives under race:

(a) Ethnicity:

(1) Hispanic. A person who identifies with or is of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin.

(2) Non–Hispanic

(3) Unknown

(b) Race:

(1) White. A person having origins in or who identifies with any of the original caucasian peoples of Europe, North Africa, or the Middle East.

(2) Black. A person having origins in or who identifies with any of the black racial groups of Africa.

(3) Native American/Eskimo/Aleut. A person having origins in or who identifies with any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

(4) Asian/Pacific Islander. A person having origins in or who identifies with any of the original oriental peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. Includes Hawaii, Laos, Vietnam, Cambodia, Hong Kong, Taiwan, China, India, Japan, Korea, the Philippine Islands, and Samoa.

(5) Other. Any possible options not covered in the above categories.

(6) Unknown.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128735, Health and Safety Code.

HISTORY

1. New section filed 10–14–93; operative 11–15–93 (Register 93, No. 42).
2. Amendment of section and NOTE filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
3. Amendment of subsection (b)(4) filed 9–21–98; operative 10–21–98 (Register 98, No. 39).
4. Amendment of section heading filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97219. Definition of Data Element for Inpatients—ZIP Code.

The "ZIP Code," a unique code assigned to a specific geographic area by the U.S. Postal Service, for the patient's usual residence shall be reported for each patient discharge. Foreign residents shall be reported as "YYYYY" and unknown ZIP Codes shall be reported as "XXXXX." If the city of residence is known, but not the street address, report the first three digits of the ZIP Code, and the last two digits as zeros. Hospitals shall distinguish the "homeless" (patients who lack a residence) from other patients lacking a numeric ZIP Code of residence by reporting the ZIP Code of homeless patients as "ZZZZZ." If the patient has a 9–digit ZIP Code, only the first five digits shall be reported.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128735, Health and Safety Code.

HISTORY

1. New section filed 10–14–93; operative 11–15–93 (Register 93, No. 42).
2. Amendment of section and NOTE filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
3. Amendment filed 9–21–98; operative 10–21–98 (Register 98, No. 39).
4. Amendment of section heading filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97220. Definition of Data Element for Inpatients—Patient Social Security Number.

The patient's social security number is to be reported as a 9–digit number. If the patient's social security number is not recorded in the patient's medical record, the social security number shall be reported as "not in medical record," by reporting the social security number as "000000001." The number to be reported is to be the patient's social security number, not the social security number of some other person, such as the mother of a newborn or the insurance beneficiary under whose account the hospital's bill is to be submitted.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128735, Health and Safety Code.

HISTORY

1. New section filed 10–14–93; operative 11–15–93 (Register 93, No. 42).
2. Amendment of section and NOTE filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
3. Amendment filed 9–21–98; operative 10–21–98 (Register 98, No. 39).
4. Amendment of section heading filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97221. Definition of Data Element for Inpatients—Admission Date.

The patient's date of admission shall be reported in numeric form as follows: the 2–digit month, the 2–digit day and the 4–digit year. The numeric form for days and months from 1 to 9 must have a zero as the first digit. For discharges representing a transfer of a patient from one level of care within the hospital to another level of care within the hospital, as defined by Subsection (x) of Section 97212 and reported pursuant to Section 97212, the admission date reported shall be the date the patient was transferred to the level of care being reported on this record.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128735, Health and Safety Code.

HISTORY

1. New section applicable to all discharges after December 31, 1996 filed 7–15–96; operative 8–14–96 (Register 96, No. 29).
2. Amendment filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
3. Repealer of version of section 97221 applicable through 12–31–96 and amendment of version of section 97221 applicable beginning 1–1–97 filed 9–21–98; operative 10–21–98 (Register 98, No. 39). For prior history see Register 97, No. 30.
4. Amendment of section heading filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97222. Definition of Data Element for Inpatients—Source of Admission.

Effective with discharges on or after January 1, 1997, in order to describe the patient's source of admission, it is necessary to address three aspects of the source: first, the site from which the patient originated; second, the licensure of the site from which the patient originated; and, third, the route by which the patient was admitted. One alternative shall be selected from the list following each of three aspects:

(a) The site from which the patient was admitted.

(1) Home. A patient admitted from the patient's home, the home of a relative or friend, or a vacation site, whether or not the patient was seen at an outpatient clinic or physician's office, or had been receiving home health services or hospice care at home.

(2) Residential Care Facility. A patient admitted from a facility in that the patient resides and that provides special assistance to its residents in activities of daily living, but that provides no organized health care.

(3) Ambulatory Surgery. A patient admitted after treatment or examination in an ambulatory surgery facility, whether hospital–based or a freestanding licensed ambulatory surgery clinic or certified ambulatory surgery center. Excludes outpatient clinics and physicians' offices not licensed and/or certified as an ambulatory surgery facility.

(4) Skilled Nursing/Intermediate Care. A patient admitted from skilled nursing care or intermediate care, whether freestanding or hospital–based, or from a Congregate Living Health Facility as defined by Subdivision (i) of Section 1250 of the Health and Safety Code.

(5) Acute Hospital Care. A patient who was an inpatient at a hospital, and who was receiving inpatient hospital care of a medical/surgical nature, such as a perinatal, pediatric, intensive care, coronary care, respiratory care, newborn intensive care, or burn unit of a hospital.

(6) Other Hospital Care. A patient who was an inpatient at a hospital, and who was receiving inpatient hospital care not of a medical/surgical nature, such as in a psychiatric, physical medicine rehabilitation, or chemical dependency recovery treatment unit.

(7) Newborn. A baby born alive in this hospital.

(8) Prison/Jail. A patient admitted from a correctional institution.

(9) Other. A patient admitted from a source other than mentioned above. Includes patients admitted from a freestanding, not hospital-based, inpatient hospice facility.

(b) Licensure of the site.

(1) This Hospital. The Ambulatory Surgery, Skilled Nursing/Intermediate Care, Acute Hospital Care, or Other Hospital Care from which the patient was admitted was operated as part of the license of this hospital. Includes all newborns.

(2) Another Hospital. The Ambulatory Surgery, Skilled Nursing/Intermediate Care, Acute Hospital Care, or Other Hospital Care from which the patient was admitted was operated as part of the license of some other hospital.

(3) Not a Hospital. The site from which the patient was admitted was not operated under the license of a hospital. Includes all patients admitted from Home, Residential Care, Prison/Jail, and Other sites. Includes patients admitted from Ambulatory Surgery or Skilled Nursing/Intermediate Care sites that were not operated under the authority of the license of any hospital. Excludes all patients admitted from Acute Hospital Care or Other Hospital Care.

(c) Route of admission.

(1) Your Emergency Room. Any patient admitted as an inpatient after being treated or examined in this hospital's emergency room. Excludes patients seen in the emergency room of another hospital.

(2) Not Your Emergency Room. Any patient admitted as an inpatient without being treated or examined in this hospital's emergency room. Includes patients seen in the emergency room of some other hospital and patients not seen in any emergency room.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128735, Health and Safety Code.

HISTORY

1. New section filed 10–14–93; operative 11–15–93 (Register 93, No. 42).
2. Editorial correction of printing errors in subsection (a)(5) (Register 94, No. 17).
3. Amendment of subsection (b), new subsections (c)–(c)(3)(B) and amendment of NOTE filed 7–15–96; operative 8–14–96 (Register 96, No. 29).
4. Editorial correction of subsection (b)(1)(G) (Register 97, No. 19).
5. Amendment filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
6. Repealer of subsections (a)–(a)(3)(B), subsection relettering, and amendment of remainder of section filed 9–21–98; operative 10–21–98 (Register 98, No. 39).
7. Amendment of section heading filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97223. Definition of Data Element for Inpatients—Type of Admission.

Effective with discharges on January 1, 1995, the patient's type of admission shall be reported using one of the following categories:

(a) Scheduled. Admission was arranged with the hospital at least 24 hours prior to the admission.

(b) Unscheduled. Admission was not arranged with the hospital at least 24 hours prior to the admission.

(c) Infant. An infant less than 24 hours old.

(d) Unknown. Nature of admission not known. Does not include stillbirths.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128735, Health and Safety Code.

HISTORY

1. New section filed 10–14–93; operative 11–15–93 (Register 93, No. 42).
2. Editorial correction of printing errors in subsections (a)(1) and (b) (Register 94, No. 17).
3. Amendment of section and NOTE filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
4. Amendment of section heading filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97224. Definition of Data Element for Inpatients—Discharge Date.

The patient's date of discharge shall be reported in numeric form as follows: the 2–digit month, the 2–digit day, and the 4–digit year. The numeric form for days and months from 1 to 9 must have a zero as the first digit.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128735, Health and Safety Code.

HISTORY

1. New section filed 10–14–93; operative 11–15–93 (Register 93, No. 42).
2. Amendment NOTE filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
3. Amendment filed 9–21–98; operative 10–21–98 (Register 98, No. 39).
4. Amendment of section heading filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97225. Definition of Data Element for Inpatients—Principal Diagnosis and Whether the Condition was Present at Admission.

(a) The patient's principal diagnosis, defined as the condition established, after study, to be the chief cause of the admission of the patient to the facility for care, shall be coded according to the ICD–9–CM.

(b) Effective with discharges on or after January 1, 1996, whether the patient's principal diagnosis was present at admission shall be reported as one of the following:

(1) Yes

(2) No

(3) Uncertain.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128735, Health and Safety Code.

HISTORY

1. New section filed 10–14–93; operative 11–15–93 (Register 93, No. 42).
2. Amendment of section heading and section filed 11–27–95; operative 1–1–96 (Register 95, No. 48).
3. Amendment of NOTE filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
4. Amendment of subsections (a) and (b) filed 9–21–98; operative 10–21–98 (Register 98, No. 39).
5. Amendment of section heading filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97226. Definition of Data Element for Inpatients—Other Diagnoses and Whether the Conditions were Present at Admission.

(a) The patient's other diagnoses are defined as all conditions that coexist at the time of admission, that develop subsequently during the hospital stay, or that affect the treatment received and/or the length of stay. Diagnoses that relate to an earlier episode that have no bearing on the current hospital stay are to be excluded. Diagnoses shall be coded according to the ICD–9–CM. ICD–9–CM codes from the Supplementary Classification of External Causes of Injury and Poisoning (E800–E999) and codes from Morphology of Neoplasms (M800–M997 codes) shall not be reported as other diagnoses.

(b) Effective with discharges on or after January 1, 1996, whether the patient's other diagnoses were present at admission shall be reported as one of the following:

(1) Yes

(2) No

(3) Uncertain.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128735, Health and Safety Code.

HISTORY

1. New section filed 10–14–93; operative 11–15–93 (Register 93, No. 42).
2. Amendment of section heading and section filed 11–27–95; operative 1–1–96 (Register 95, No. 48).
3. Amendment of subsection (a) and NOTE filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
4. Amendment of subsections (a) and (b) filed 9–21–98; operative 10–21–98 (Register 98, No. 39).

5. Amendment of section heading and subsection (a) filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97227. Definition of Data Element for Inpatients—External Cause of Injury.

The external cause of injury consists of the ICD–9–CM codes E800–E999 (E–codes), that are codes used to describe the external causes of injuries, poisonings, and adverse effects. If the information is available in the medical record, E–codes sufficient to describe the external causes shall be reported for records with a principal and/or other diagnoses classified as injuries or poisonings in Chapter 17 of the ICD–9–CM (800–999), or where a code from Chapters 1–16 of the ICD–9–CM (001–799) indicates that an additional E–code is applicable, except that the reporting of E–codes in the range E870–E879 (misadventures and abnormal reactions) are not required to be reported. An E–code is to be reported on the record for the first episode of care reportable to the Office during which the injury, poisoning, and/or adverse effect was diagnosed and/or treated. If the E–code has been previously reported on a discharge or encounter record to the Office, the E–code should not be reported again on the discharge record. To assure uniform reporting of E–codes, when multiple codes are required to completely classify the cause, the first (principal) E–code shall describe the mechanism that resulted in the most severe injury, poisoning, or adverse effect. If the principal E–code does not include a description of the place of occurrence of the most severe injury or poisoning, an E–code shall be reported to designate the place of occurrence, if available in the medical record. Additional E–codes shall be reported, if necessary to completely describe the mechanisms that contributed to, or the causal events surrounding, any injury, poisoning, or adverse effect.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128735, Health and Safety Code.

HISTORY

1. New section filed 10–14–93; operative 11–15–93 (Register 93, No. 42).
2. Amendment of section and NOTE filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
3. Amendment filed 9–21–98; operative 10–21–98 (Register 98, No. 39).
4. Amendment of section heading and section filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).
5. Amendment filed 11–21–2006; operative 11–21–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 47).

§ 97228. Definition of Data Element for Inpatients—Principal Procedure and Date.

The patient's principal procedure is defined as one that was performed for definitive treatment rather than one performed for diagnostic or exploratory purposes, or was necessary to take care of a complication. If there appear to be two procedures that are principal, then the one most related to the principal diagnosis should be selected as the principal procedure. Procedures shall be coded according to the ICD–9–CM. If only non–therapeutic procedures were performed, then a non–therapeutic procedure should be reported as the principal procedure, if it was a significant procedure. A significant procedure is one that is surgical in nature, or carries a procedural risk, or carries an anesthetic risk, or is needed for DRG assignment. The date the principal procedure was performed shall be reported in numeric form as follows: the 2–digit month, the 2–digit day and the 4–digit year. The numeric form for days and months from 1 to 9 must have a zero as the first digit.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128735, Health and Safety Code.

HISTORY

1. New section filed 10–14–93; operative 11–15–93 (Register 93, No. 42).
2. Amendment of NOTE filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
3. Amendment filed 9–21–98; operative 10–21–98 (Register 98, No. 39).
4. Amendment of section heading filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97229. Definition of Data Element for Inpatients—Other Procedures and Dates.

All significant procedures are to be reported. A significant procedure is one that is surgical in nature, or carries a procedural risk, or carries an anesthetic risk, or is needed for DRG assignment. Procedures shall be coded according to the ICD–9–CM. The dates shall be recorded with the corresponding other procedures and be reported in numeric form as follows: the 2–digit month, the 2–digit day, and the 4–digit year. The numeric form for days and months from 1 to 9 must have a zero as the first digit.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128735, Health and Safety Code.

HISTORY

1. New section filed 10–14–93; operative 11–15–93 (Register 93, No. 42).
2. Amendment of NOTE filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
3. Amendment filed 9–21–98; operative 10–21–98 (Register 98, No. 39).
4. Amendment of section heading filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97230. Definition of Data Element for Inpatients—Total Charges.

The total charges are defined as all charges for services rendered during the length of stay for patient care at the facility, based on the hospital's full established rates. Charges shall include, but not be limited to, daily hospital services, ancillary services and any patient care services. Hospital–based physician fees shall be excluded. Prepayment (e.g. deposits and prepaid admissions) shall not be deducted from Total Charges. If a patient's length of stay is more than 1 year (365 days), report Total Charges for the last year (365 days) of stay only.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128735, Health and Safety Code.

HISTORY

1. New section filed 10–14–93; operative 11–15–93 (Register 93, No. 42).
2. Amendment of NOTE filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
3. Amendment filed 9–21–98; operative 10–21–98 (Register 98, No. 39).
4. Amendment of section heading filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97231. Definition of Data Element for Inpatients—Disposition of Patient.

Effective with discharges on or after January 1, 1997, the patient's disposition, defined as the consequent arrangement or event ending a patient's stay in the reporting facility, shall be reported as one of the following:

(a) Routine Discharge. A patient discharged from this hospital to return home or to another private residence. Patients scheduled for follow–up care at a physician's office or a clinic shall be included. Excludes patients referred to a home health service.

(b) Acute Care Within This Hospital. A patient discharged to inpatient hospital care that is of a medical/surgical nature, such as to a perinatal, pediatric, intensive care, coronary care, respiratory care, newborn intensive care, or burn unit within this reporting hospital.

(c) Other Type of Hospital Care Within This Hospital. A patient discharged to inpatient hospital care not of a medical/surgical nature and not skilled nursing/intermediate care, such as to a psychiatric, physical medicine rehabilitation, or chemical dependency recovery treatment unit within this reporting hospital.

(d) Skilled Nursing/Intermediate Care Within This Hospital. A patient discharged to a Skilled Nursing/Intermediate Care Distinct Part within this reporting hospital.

(e) Acute Care at Another Hospital. A patient discharged to another hospital to receive inpatient care that is of a medical/surgical nature, such as to a perinatal, pediatric, intensive care, coronary care, respiratory care, newborn intensive care, or burn unit of another hospital.

(f) Other Type of Hospital Care at Another Hospital. A patient discharged to another hospital to receive inpatient hospital care not of a medical/surgical nature and not skilled nursing/intermediate care, such as to a psychiatric, physical medicine rehabilitation, or chemical dependency recovery treatment unit of another hospital.

(g) Skilled Nursing/Intermediate Care Elsewhere. A patient discharged from this hospital to a Skilled Nursing/Intermediate Care type of care, either freestanding or a distinct part within another hospital, or to a Congregate Living Health Facility as defined by Subsection (i) of Section 1250 of the Health and Safety Code.

(h) Residential Care Facility. A patient discharged to a facility that provides special assistance to its residents in activities of daily living, but that provides no organized health care.

(i) Prison/Jail. A patient discharged to a correctional institution.

(j) Against Medical Advice. Patient left the hospital against medical advice without a physician's discharge order. Psychiatric patients discharged from away without leave (AWOL) status are included in this category.

(k) Died. All episodes of inpatient care that terminated in death. Patient expired after admission and before leaving the hospital.

(*l*) Home Health Service. A patient referred to a licensed home health service program.

(m) Other. A patient discharged to some place other than mentioned above. Includes patients discharged to a freestanding, not hospital-based, inpatient hospice facility.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128735, Health and Safety Code.

HISTORY

1. New section filed 10-14-93; operative 11-15-93 (Register 93, No. 42).
2. Amendment of subsection (b), new subsections (c)-(c)(13) and amendment of NOTE filed 7-15-96; operative 8-14-96 (Register 96, No. 29).
3. Amendment filed 7-23-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
4. Repealer of subsections (a)-(a)(13), subsection relettering, and amendment of remainder of section filed 9-21-98; operative 10-21-98 (Register 98, No. 39).
5. Amendment of section heading filed 5-5-2005; operative 5-5-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97232. Definition of Data Element for Inpatients—Expected Source of Payment.

(a) Effective with discharges on or after January 1, 1999, the patient's expected source of payment shall be reported using the following:

(1) Payer Category: The type of entity or organization which is expected to pay or did pay the greatest share of the patient's bill.

(A) Medicare. A federally administered third party reimbursement program authorized by Title XVIII of the Social Security Act. Includes crossovers to secondary payers.

(B) Medi-Cal. A state administered third party reimbursement program authorized by Title XIX of the Social Security Act.

(C) Private Coverage. Payment covered by private, non-profit, or commercial health plans, whether insurance or other coverage, or organizations. Included are payments by local or organized charities, such as the Cerebral Palsy Foundation, Easter Seals, March of Dimes, or Shriners.

(D) Workers' Compensation. Payment from workers' compensation insurance, government or privately sponsored.

(E) County Indigent Programs. Patients covered under Welfare and Institutions Code Section 17000. Includes programs funded in whole or in part by County Medical Services Program (CMSP), California Healthcare for Indigents Program (CHIP), and/or Realignment Funds whether or not a bill is rendered.

(F) Other Government. Any form of payment from government agencies, whether local, state, federal, or foreign, except those in Subsections (a)(1)(A), (a)(1)(B), (a)(1)(D), or (a)(1)(E) of this section. Includes funds received through the California Children Services (CCS), the Civilian Health and Medical Program of the Uniformed Services (TRICARE), and the Veterans Administration.

(G) Other Indigent. Patients receiving care pursuant to Hill-Burton obligations or who meet the standards for charity care pursuant to the hospital's established charity care policy. Includes indigent patients, except those described in Subsection (a)(1)(E) of this section.

(H) Self Pay. Payment directly by the patient, personal guarantor, relatives, or friends. The greatest share of the patient's bill is not expected to be paid by any form of insurance or other health plan.

(I) Other Payer. Any third party payment not included in Subsections (a)(1)(A) through (a)(1)(H) of this section. Included are cases where no payment will be required by the facility, such as special research or courtesy patients.

(2) Type of Coverage. For each Payer Category, Subsections (a)(1)(A) through (a)(1)(F) of this section, select one of the following Types of Coverage:

(A) Managed Care—Knox-Keene/Medi-Cal County Organized Health System. Health care service plans, including Health Maintenance Organizations (HMO), licensed by the Department of Corporations under the Knox-Keene Health Care Service Plan Act of 1975. Includes Medi-Cal County Organized Health Systems.

(B) Managed Care—Other. Health care plans, except those in Subsection (a)(2)(A) of this section, which provide managed care to enrollees through a panel of providers on a pre-negotiated or per diem basis, usually involving utilization review. Includes Preferred Provider Organization (PPO), Exclusive Provider Organization (EPO), Exclusive Provider Organization with Point-of-Service option (POS).

(C) Traditional Coverage. All other forms of health care coverage, including the Medicare prospective payment system, indemnity or fee-for-service plans, or other fee-for-service payers.

(3) Name of Plan.

(A) For discharges occurring on or after January 1, 2004, report the names of those plans which are licensed under the Knox-Keene Health Care Service Plan Act of 1975 or designated as a Medi-Cal County Organized Health System. For Type of Coverage, Subsection (a)(2)(A) of this section, report the plan code number representing the name of the Knox-Keene licensed plan or the Medi-Cal County Organized Health System as shown in Table 1.

Table 1. Plan Code Numbers for Knox-Keene Licensed Plans and Medi-Cal County Organized Health Systems:
For use with discharges occurring on or after January 1, 2004

Plan Names and Medi-Cal County Organized Health System Names	*Plan Code Numbers*
AET Health Care Plan of California	0296
Aetna Health Plans of California, Inc.	0176
Alameda Alliance for Health	0328
American Family Care	0322
Avante Behavioral Health Plan	0397
Blue Cross of California	0303
Blue Shield of California	0043
Caloptima (Orange County)	0394
Care 1st Health Plan	0326
CareMore Insurance Services, Inc.	0408
Cedars-Sinai Provider Plan, LLC	0366
Central Coast Alliance For Health (Santa Cruz County/Monterey County)	0401
Central Health Plan	0404
Chinese Community Health Plan	0278
Cigna Behavioral Health of California	0298
Cigna HealthCare of California, Inc.	0152
Community Health Group	0200
Community Health Plan (County of Los Angeles)	0248
Contra Costa Health Plan	0054
HAI, Hai-Ca	0292
Health Net of California, Inc.	0300
Health Plan of America (HPA)	0126
Health Plan of the Redwoods	0159
(The) Health Plan of San Joaquin	0338
Health Plan of San Mateo	0358
Heritage Provider Network, Inc.	0357
HHRC, Integrated Insights	0319
Holman Professional Counseling Centers	0231

Plan Names and Medi–Cal County Organized Health System Names	*Plan Code Numbers*
Inland Empire Health Plan (IEHP)	0346
Inter Valley Health Plan	0151
Kaiser Foundation Health Plan, Inc.	0055
Kern Health Systems Inc.	0335
Lifeguard, Inc.	0142
LA Care Health Plan	0355
Managed Health Network	0196
Medcore HP	0390
Merit Behavioral Care of California, Inc. (MBC)	0288
Molina Healthcare of California	0322
One Health Plan of California Inc.	0325
On Lok Senior Health Services	0385
PacifiCare Behavioral Health of California	0301
PacifiCare of California	0126
Primecare Medical Network, Inc.	0367
ProMed Health Care Administrators	0380
Regents of the University of California	0354
San Francisco Health Plan	0349
Santa Barbara Regional Health Authority	0400
Santa Clara Family Health Plan	0351
Santa Clara Valley Med. Ctr.	0236
SCAN Health Plan	0212
Scripps Clinic Health Plan Services, Inc.	0377
Secure Horizons	0126
Sharp Health Plan	0310
Simnsa Health Care	0393
Sistemas Medicos Nacionales, S.A. De C.V.	0393
Smartcare Health Plan	0212
Solano Partnership Health Plan (Solano County)	9048
The Health Plan of San Joaquin	0338
UHP Healthcare	0008
Universal Care	0209
U.S. Behavioral Health Plan, California	0259
Valley Health Plan	0236
ValueOptions of California, Inc.	0293
Ventura County Health Care Plan	0344
Vista Behavioral Health Plan	0102
Western Health Advantage	0348
Other	8000

(B) For discharges occurring on or after January 1, 2005 also include the additional plans listed.

Table 1a. Additional Plan Code Numbers for Knox–Keene Licensed Plans and Medi–Cal County Organized Health Systems: For use with discharges occurring on or after January 1, 2005

Plan Names and Medi–Cal County Organized Health System Names	*Plan Code Numbers*
Blue Cross of California Partnership Plan	0415
Great–West Healthcare of California, Inc.	0325
Honored Citizens Choice Health Plan, Inc.	0414

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128735, Health and Safety Code.

HISTORY

1. New section filed 10–14–93; operative 11–15–93 (Register 93, No. 42).
2. Amendment filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
3. Amendment of section, including new subsection (a)(3)(A), filed 9–21–98; operative 10–21–98 (Register 98, No. 39).
4. Editorial correction of HISTORY 3 (Register 2000, No. 20).
5. Change without regulatory effect repealing subsections (a)–(a)(14), renumbering subsections, amending newly designated subsections (a)(1)(F), (a)(1)(G), (a)(1)(I), (a)(2), (a)(2)(B) and (a)(3)(A), and adopting new subsection (a)(2)(B) filed 5–17–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 20).
6. Change without regulatory effect repealing subsection (a)(3)(A), relettering subsections, amending newly designated subsection (a)(3)(A) and adopting new subsection (a)(3)(B) filed 3–8–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 11).
7. Amendment of section heading filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).
8. Change without regulatory effect amending subsection (a)(1)(C), repealing subsection (a)(3)(A), relettering former subsection (a)(3)(B) to new subsection (a)(3)(A) and adopting new subsection (a)(3)(B) filed 8–11–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 32).

§ 97233. Definition of Data Element for Inpatients—Prehospital Care and Resuscitation.

Effective with discharges on or after January 1, 1999, information about resuscitation orders in a patient's current medical record shall be reported as follows:

(a) Yes, a DNR order was written at the time of or within the first 24 hours of the patient's admission to the hospital.

(b) No, a DNR order was not written at the time of or within the first 24 hours of the patient's admission to the hospital.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128735, Health and Safety Code.

HISTORY

1. New section filed 9–21–98; operative 10–21–98 (Register 98, No. 39).
2. Amendment of section heading filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97239. Hospital Identification Number.

NOTE: Authority cited: Section 128765, Health and Safety Code. Reference: Section 128735, Health and Safety Code.

HISTORY

1. New section filed 10–14–93; operative 11–15–93 (Register 93, No. 42).
2. Amendment filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
3. Amendment filed 9–21–98; operative 10–21–98 (Register 98, No. 39).
4. Repealer filed 9–23–2003; operative 9–23–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).

§ 97240. Request for Modifications to Patient Data Reporting.

(a) Reporting facilities may file a request with the Office for modifications to Hospital Discharge Abstract Data, Emergency Care Data, or Ambulatory Surgery Data reporting requirements. The modification request must be supported by a detailed justification of the hardship that full reporting of data would have on the reporting facility; an explanation of attempts to meet data reporting requirements; and a description of any other factors that might justify a modification. Modifications may be approved for only one year. Each reporting facility with an approved modification must request a renewal of that approval 60 days prior to termination of the approval period in order to have the modification continue in force.

(b) The criteria to be considered and weighed by the Office in determining whether a modification to data reporting requirements may be granted are as follows:

(1) The modification would not impair the ability of either providers or consumers to make informed health care decisions.

(2) The modification would not deprive the public of data needed to make comparative choices with respect to scope or type of services or to how services are provided, and with respect to the manner of payment.

(3) The modification would not impair any of the goals of the Act.

(c) Reporting facilities that did not have any discharges or encounters that are required to be reported pursuant to Section 97213(a) for a specific report period must complete and submit a separate No Data to Report form (OSHPD 2005.1) as Revised on 09/26/2005 on or before the required due date of the report either by using the online screen available through the MIRCal system or by printing the online No Data to Report form and mailing or faxing it to the Office for that report period.

(d) Any facility that is not licensed to provide inpatient care, or does not provide Emergency Care encounters, or does not provide outpatient procedures, or is not licensed as a surgical clinic, and from whom such reporting is not therefore expected, is not required to file a No Data to Report form.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128735, 128736, 128737 and 128760, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 97213 to new section 97240 filed 10–14–93; operative 11–15–93 (Register 93, No. 42).
2. Amendment of subsection (a) filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
3. Amendment of subsection (b)(2) filed 9–21–98; operative 10–21–98 (Register 98, No. 39).
4. Amendment of section heading, section and NOTE filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).
5. New subsections (c)–(d) filed 11–21–2006; operative 11–21–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 47).

§ 97241. Extensions of Time to File Reports.

(a) Extensions are available to reporting facilities that are unable to complete the submission of reports by the due date prescribed in Section 97211.

(1) Requests for extension shall be filed on or before the required due date of the report by using the extension request screen available through the MIRCal system or by using the Patient Data Reporting Extension Request (form DD1805) as revised 06/09/2005. Notices regarding the use of extension days, and new due dates, as well as notices of approval and rejection, will be e–mailed to the primary contact and Administrator e–mail addresses provided by the facility. If a Designated Agent e–mail contact address has been provided by the facility, this contact will also be notified. These notices will also be available to all facility MIRCal users on the MIRCal Submission Status page.

(2) The Office shall respond within 5 days of receipt of the request by either granting what is determined to be a reasonable extension or disapproving the request. The Office shall not grant extensions that exceed the maximum number of days available for the report period for all extensions. If a reporting facility submits the report prior to the due date of an extension, those days not used will be applied to the number of remaining extension days. A reporting facility that wishes to contest any decision of the Office shall have the right to appeal, pursuant to Section 97052.

(b) A maximum of 14 extension days will be allowed for all extensions and resubmittals of reports with discharges or encounters occurring on or after January 1, 2005.

(c) If a report is rejected on, or within 7 days before, or at any time after, any due date established by Subsections (c), or (d), of Section 97211, the Office shall grant, if available, an extension of 7 days. If less than 7 days are available all available extension days will be granted.

(d) If the Office determines that the MIRCal system was unavailable for data submission for one or more periods of 4 or more continuous supported hours during the 4 State working days before a due date established pursuant to Section 97211, the Office shall extend the due date by 7 days.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128770, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 97214 to new section 97241 filed 10–14–93; operative 11–15–93 (Register 93, No. 42).
2. Amendment of section and NOTE filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
3. Amendment of last paragraph filed 9–21–98; operative 10–21–98 (Register 98, No. 39).
4. Amendment of section heading and section filed 9–23–2003; operative 9–23–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).
5. Amendment of section heading, section and NOTE filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).
6. Change without regulatory effect repealing subsections (b) and (c) and relettering subsections filed 8–11–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 32).
7. Amendment of subsections (a)(1) and (a)(2), repealer of subsections (a)(1)(A)–(C) and amendment of NOTE filed 11–21–2006; operative 11–21–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 47).

§ 97242. Error Tolerance Levels.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128735, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 97215 to new section 97242 filed 10–14–93; operative 11–15–93 (Register 93, No. 42).
2. Editorial correction of printing errors in tables 1 and 2 (Register 94, No. 17).
3. Amendment of Tables 1 and 2, newly designated subsection (d)(5)(A) and new subsection (d)(5)(B) filed 11–27–95; operative 1–1–96 (Register 95, No. 48).
4. Amendment of section and NOTE filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
5. Amendment of section, including repealer of table 2, filed 9–21–98; operative 10–21–98 (Register 98, No. 39).
6. Repealer filed 9–23–2003; operative 9–23–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).

§ 97243. Acceptance Criteria.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128735, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 97216 to new section 97243 filed 10–14–93; operative 11–15–93 (Register 93, No. 42).
2. Editorial correction of printing errors in subsection (b) (Register 94, No. 17).
3. Amendment of section and NOTE filed 7–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 30).
4. Amendment filed 9–21–98; operative 10–21–98 (Register 98, No. 39).
5. Repealer filed 9–23–2003; operative 9–23–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).

§ 97244. Method of Submission.

(a) Reporting facilities shall use the MIRCal system for submitting reports. Data shall be reported utilizing a Microsoft Internet Explorer web browser that supports a secure Internet connection utilizing the Secure Hypertext Transfer Protocol (HTTPS or https) and 128–bit cypher strength Secure Socket Layer (SSL) through either:

(1) Online transmission of data reports as electronic data files, or

(2) Online entry of individual records.

(b) For Hospital Discharge Abstract Data reports: If an approved exemption is on file with the Office, pursuant to Health and Safety Code Section 128755, a hospital may report discharges on or after January 1, 2003 by diskette, compact disk or Hospital Discharge Abstract Data Record Manual Abstract Reporting Form, provided the hospital complies with the Office's Format and File Specifications for MIRCal Online Transmission Patient Discharge Data as revised in April 2004. The version of the Manual Abstract Reporting Form (OSHPD 1370.IP) to be used is as revised on 03/17/2004. Copies of Form 1370.IP shall be made by the hospital to submit its discharge data and each additional copy shall be made on one sheet, front (Page 1 of 2) and back (Page 2 of 2).

(c) For Emergency Care Data reports: If an approved exemption is on file with the Office, pursuant to Health and Safety Code Section 128755, a hospital may report encounters on or after October 1, 2004 by diskette, compact disk or Emergency Care Data Record Manual Abstract Reporting Form (OSHPD 1370.ED), provided the hospital complies with the Office's Format and File Specifications for MIRCal Online Transmission Emergency Department and Ambulatory Surgery, dated January 2006. The version of the Manual Abstract Reporting Form (1370.ED) to be used is dated 01/01/2006. Copies of Form 1370.ED shall be made by the hospital to submit its encounter data and each additional copy shall be made on three sheets (Page 1 of 3), (Page 2 of 3), and (Page 3 of 3).

(d) For Ambulatory Surgery Data reports: If an approved exemption is on file with the Office, pursuant to Health and Safety Code Section 128755, a hospital or freestanding ambulatory surgery clinic may report encounters on or after October 1, 2004 by diskette, compact disk or Ambulatory Surgery Data Record Manual Abstract Reporting Form (OSHPD 1370.AS), provided the reporting facility complies with the Office's Format and File Specifications for MIRCal Online Transmission Emergency Department and Ambulatory Surgery, dated January 2006. The version of the Manual Abstract Reporting Form (1370.AS) to be used is dated 01/01/2006. Copies of Form 1370.AS shall be made by the hospital or freestanding ambulatory surgery clinic to submit its encounter

data and each additional copy shall be made on three sheets (Page 1 of 3), (Page 2 of 3), and (Page 3 of 3).

NOTE: Authority cited: Section 128755, Health and Safety Code. Reference: Sections 128735, 128736 and 128737, Health and Safety Code.

HISTORY

1. New section filed 9–23–2003; operative 9–23–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).
2. Amendment of section and NOTE filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).
3. Amendment of subsections (c)–(d) filed 11–21–2006; operative 11–21–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 47).

§ 97245. Online Test Option.

Reports may be tested before formal submission to the Office using the online test option. Online testing of reports through the MIRCal online test option before formal transmission is the recommended means of ensuring compliant data that meets the standards established by the Office before the due date. Reports tested through the online test option will be subject to the same processing and will generate the same reports as data that is formally submitted. Reports may be tested through the test option as many times as needed to assure that the reports meet the standards established by the Office in Section 97247.

NOTE: Authority cited: Section 128755, Health and Safety Code. Reference: Sections 128735, 128736 and 128737, Health and Safety Code.

HISTORY

1. New section filed 9–23–2003; operative 9–23–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).
2. Amendment of NOTE filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97246. Data Transmittal Requirements.

(a) Reporting facilities submitting their own data online must use the MIRCal Online Data Transmittal by Facility method to file or submit each report. The following information must be included: the facility name, the unique identification number specified in Section 97210, the beginning and ending dates of the report period, the number of records in the report and the following statement of certification:

I certify under penalty of perjury that I am an official of this facility and am duly authorized to submit these data; and that, to the extent of my knowledge and information, the accompanying records are true and correct, and that the applicable definitions of the data elements as set forth in Article 8 (Patient Data Reporting Requirements) of Chapter 10 (Health Facility Data) of Division 7 of Title 22 of in the California Code of Regulations, have been followed by this facility.

(b) Reporting facilities that choose to designate an agent to submit their records must submit a hardcopy Agent Designation Form (OSHPD 1370.3, Revised: 06/09/2005), hereby incorporated by reference, to the Office's Patient Data Program. Receipt of a subsequent hardcopy Agent Designation Form supercedes the previous designation. Each reporting facility shall notify the Office's Patient Data Program within 15 days after any change in designated agent.

(c) An agent who has been designated by a reporting facility to submit that facility's data online must use the MIRCal Online Data Transmittal by Agent method to file or submit reports. The following information must be included: the facility name, the facility identification number specified in Section 97210, the beginning and ending dates of the report period, and the number of records in the report.

(d) Reporting facilities with an approved exemption to submit records using either Hospital Discharge Abstract Data Record Manual Abstract Reporting Forms (OSHPD 1370.IP, Revised: 03/17/2004), or Emergency Care Data Record Manual Abstract Reporting Forms (OSHPD 1370.ED dated 01/01/2006), or Ambulatory Surgery Data Record Manual Abstract Reporting Forms (OSHPD 1370.AS dated 01/01/2006), diskette, or compact disk, must submit a hardcopy Individual Facility Transmittal Form (OSHPD 1370.1, Revised: 06/09/2005), hereby incorporated by reference. The Individual Facility Transmittal Form shall accompany the report.

(e) Agents who have been designated by a reporting facility to submit a facility's report in accordance with an approved exemption as described in (d) above must submit a hardcopy Designated Agent Transmittal Form (OSHPD 1370.2, Revised: 06/09/2005), hereby incorporated by reference. The Designated Agent Transmittal Form shall accompany the facility's report.

(f) A facility's administrator may designate no more than 3 User Account Administrators. For each User Account Administrator there must be an original signed Facility User Account Administrator Agreement Form (OSHPD 2002.1, Revised: 01/05/2006), and hereby incorporated by reference), submitted to the Office.

(g) A signed Designated Agent User Agreement Form (OSHPD 2002.2, Revised: 01/05/2006), hereby incorporated by reference, must be submitted to the Office by an agent who has been designated to submit data online.

(h) Reporting facilities and designated agents may obtain copies of the forms from the OSHPD web site at www.oshpd.ca.gov or by contacting the Office's Patient Data Program at (916) 324–6147.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128735, 128736 and 128737, Health and Safety Code.

HISTORY

1. New section filed 9–23–2003; operative 9–23–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).
2. Amendment of section and NOTE filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).
3. Amendment of subsections (b) and (d)–(g) filed 11–21–2006; operative 11–21–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 47).

§ 97247. Approval Criteria.

(a) The following requirements must be met for a report to be approved by the Office:

(1) Complete transmittal information must be submitted with each report.

(2) The facility identification number stated in the transmittal information must be consistent with the facility identification number on each of the records in the report.

(3) The report period stated in the transmittal information must be consistent with all of the records in the report.

(4) The number of records stated in the transmittal information must be consistent with the number of records contained in the report.

(5) All records required to be reported pursuant to 97213(a) must be reported.

(6) The data must be reported in compliance with the format specifications in Section 97215.

(7) The data must be at, or below, the Error Tolerance Level specified in Section 97248.

(8) The data must be consistent with the reporting facility's anticipated trends and comparisons, except as in (A) below:

(A) If data are correctly reported and yet are inconsistent with the reporting facility's anticipated trends and comparisons, the reporting facility may submit to the Office a written explanation detailing why the data are correct as reported. The Office may determine, upon review, that it will approve a report.

(9) Each report must contain only one type of record as specified in Subsections (1), (2), and (3) of Subsection (a) of Section 97213.

(b) The Office shall approve or reject each report within 15 days of receiving it. The report shall be considered not filed as of the date that the facility is notified that the report is rejected. Notification of approval or rejection of any report submitted online shall not take more than 15 days unless there is a documented MIRCal system failure.

NOTE: Authority cited: Sections 128810 and 128755, Health and Safety Code. Reference: Sections 128735, 128736 and 128737, Health and Safety Code.

HISTORY

1. Amendment of subsections (a)(5), (a)(8) and (a)(8)(A), new subsection (a)(9) and amendment of NOTE filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97248. Error Tolerance Level.

(a) The Error Tolerance Level (ETL) for data reported to the Office shall be no more than 2%. Errors as defined in Subsection (k) of Section 97212, must be corrected to the ETL.

(b) For hospital discharge abstract data reports that do not exceed the Error Tolerance Level specified in Subsection (a) of this Section, defaults will be as shown in Table 1.

Table 1. Hospital Discharge Abstract Data Record Defaults

Invalid Data Element	*Default*
Admission date	delete record
Discharge date	delete record
Principal Diagnosis	799.9
Conditions Present at Admission for Principal Diagnosis	Yes
All other data elements	blank or zero

(c) For emergency care data reports that do not exceed the Error Tolerance Level specified in Subsection (a) of this Section, defaults will be as shown in Table 2.

Table 2: Emergency Care Data Record Defaults

Invalid Data Element	*Default*
Service date	delete record
Principal Diagnosis	799.9
All other data elements	blank or zero

(d) For ambulatory surgery data reports that do not exceed the Error Tolerance Level specified in Subsection (a) of this Section, defaults will be as shown in Table 3.

Table 3: Ambulatory Surgery Data Record Defaults

Invalid Data Element	*Default*
Service date	delete record
Principal Diagnosis	799.9
All other data elements	blank or zero

NOTE: Authority cited: Section 128755, Health and Safety Code. Reference: Sections 128735, 128736 and 128737, Health and Safety Code.

HISTORY

1. New section filed 9–23–2003; operative 9–23–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).
2. Amendment of section and NOTE filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97249. Hours of Operation.

The MIRCal System will be supported from 8:00 a.m. to 5:00 p.m., Monday through Friday (except for Official State Holidays). System maintenance may cause intermittent MIRCal system unavailability. Contact the Patient Data Program at (916) 324–6147 to report possible MIRCal transmission problems.

NOTE: Authority cited: Section 128755, Health and Safety Code. Reference: Sections 128735, 128736 and 128737, Health and Safety Code.

HISTORY

1. New section filed 9–23–2003; operative 9–23–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).
2. Amendment of section and NOTE filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97250. Failure to File a Data Report.

Any health facility which does not file any report completed as required by this article is liable for a civil penalty of one hundred dollars ($100) a day to be assessed and recovered in a civil action brought in the name of the people of the State of California by the Office for each day that the filing of the report is delayed, considering all approved extensions of the due date as provided in Section 97241. Assessed penalties may be appealed pursuant to Section 97052. Within fifteen days after the date the reports are due, the Office shall notify the health facility of reports not yet received, the amount of the liability, and potential future liability for failure to file reports when due. Sixty days after an original report due date as specified in Section 97211(c), the MIRCal system will close for that report period. No report for the period will be accepted after the MIRCal system closure. No additional penalties will accrue for outstanding reports after the MIRCal system closure for a report period.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128735, 128736 and 128737, Health and Safety Code.

HISTORY

1. New section filed 9–23–2003; operative 9–23–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).
2. Amendment of section heading and NOTE filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).
3. Amendment filed 11–21–2006; operative 11–21–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 47).

§ 97251. Definition of Data Element for ED and AS—Date of Birth.

(a) For online transmission of data reports as electronic data files, the patient's date of birth shall be reported in numeric form as follows: the 4–digit year, the 2–digit month, and the 2–digit day. The numeric form for days and months from 1 to 9 must have a zero as the first digit.

(b) For online entry of individual records, the patient's date of birth shall be reported in numeric form as follows: the 2–digit month, the 2–digit day, and the 4–digit year. The numeric form for days and months from 1 to 9 must have a zero as the first digit.

(c) When the complete date of birth is unknown, as much of the date as is known shall be reported. At a minimum, an approximate year of birth shall be reported. If only the age is known, the estimated year of birth shall be reported and the month and day can be reported as 01 for month and 01 for day.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128736 and 128737, Health and Safety Code.

HISTORY

1. New section filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97252. Definition of Data Element for ED and AS—Sex.

The patient's gender shall be reported as male, female or unknown. Unknown indicates that the patient's sex was undetermined or not available from the medical record.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128736 and 128737, Health and Safety Code

HISTORY

1. New section filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97253. Definition of Data Element for ED and AS—Race.

The race shall be as self–reported by the patient or patient's guardian in cases where the patient is not capable of providing the information. The patient's race shall be reported as one choice from the following list of alternatives under race:

(a) American Indian or Alaska Native
(b) Asian
(c) Black or African American
(d) Native Hawaiian or Other Pacific Islander
(e) White
(f) Other Race
(g) Unknown

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128736 and 128737, Health and Safety Code.

HISTORY

1. New section filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97254. Definition of Data Element for ED and AS—Ethnicity.

The ethnicity shall be as self–reported by the patient or patient's guardian in cases where the patient is not capable of providing the information. The patient's ethnicity shall be reported as one choice from the following list of alternatives under ethnicity:

(a) Hispanic or Latino Ethnicity
(b) Non–Hispanic or Non–Latino Ethnicity
(c) Unknown

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128736 and 128737, Health and Safety Code.

HISTORY

1. New section filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97255. Definition of Data Element for ED and AS—ZIP Code.

The "ZIP Code," a unique code assigned to a specific geographic area by the U.S. Postal Service, for the patient's usual residence shall be reported for each record. If the patient has a 9-digit ZIP Code, only the first five digits shall be reported. Do not report the ZIP Code of the hospital, third party payer, or billing address if it is different from the usual residence of the patient. If the patient's ZIP Code is not recorded in the patient's medical record, the patient's ZIP Code shall be reported as "not in medical record," by reporting the unknown ZIP Code as "99999."

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128736 and 128737, Health and Safety Code.

HISTORY

1. New section filed 5-5-2005; operative 5-5-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97256. Definition of Data Element for ED and AS—Patient Social Security Number.

The patient's social security number is to be reported as a 9-digit number. If the patient's social security number is not recorded in the patient's medical record, the social security number shall be reported as "not in medical record," by reporting the social security number as "000000001." The number to be reported is to be the patient's social security number, not the social security number of some other person, such as the mother of a newborn or the insurance beneficiary under whose account the hospital's bill is to be submitted.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128736 and 128737, Health and Safety Code.

HISTORY

1. New section filed 5-5-2005; operative 5-5-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97257. Definition of Data Element for ED and AS—Service Date.

(a) For online transmission of data reports as electronic data files, the patient's service date shall be reported in numeric form as follows: the 4-digit year, the 2-digit month, and the 2-digit day. The numeric form for days and months from 1 to 9 must have a zero as the first digit.

(b) For online entry of individual records, the patient's service date shall be reported in numeric form as follows: the 2-digit month, the 2-digit day, and the 4-digit year. The numeric form for days and months from 1 to 9 must have a zero as the first digit.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128736 and 128737, Health and Safety Code.

HISTORY

1. New section filed 5-5-2005; operative 5-5-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97258. Definition of Data Element for ED and AS—Principal Diagnosis.

The patient's principal diagnosis, defined as the condition, problem, or other reason established to be the chief cause of the encounter for care, shall be coded according to the ICD-9-CM.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128736 and 128737, Health and Safety Code.

HISTORY

1. New section filed 5-5-2005; operative 5-5-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97259. Definition of Data Element for ED and AS—Other Diagnoses.

The patient's other diagnoses are defined as all conditions that coexist at the time of the encounter for emergency or ambulatory surgery care, that develop subsequently during the encounter, or that affect the treatment received. Diagnoses shall be coded according to the ICD-9-CM. ICD-9-CM codes from the Supplementary Classification of External Causes of Injury and Poisoning (E800-E999) and codes from Morphology of Neoplasms (M800-M997 codes) shall not be reported as other diagnoses.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128736 and 128737, Health and Safety Code.

HISTORY

1. New section filed 5-5-2005; operative 5-5-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97260. Definition of Data Element for ED and AS—Principal External Cause of Injury.

The external cause of injury consists of the ICD-9-CM codes E800-E999 (E-codes), that are codes used to describe external causes of injuries, poisonings, and adverse effects. If the information is available in the medical record, E-codes sufficient to describe the external causes shall be reported on records with a principal and/or other diagnoses classified as injuries or poisonings in Chapter 17 of the ICD-9-CM (800-999), or where a code from Chapters 1-16 of the ICD-9-CM (001-799) indicates that an E-code is applicable, except that the reporting of E-codes in the range E870-E879 (misadventures and abnormal reactions) are not required to be reported. An E-code is to be reported on the record for the first episode of care reportable to the Office during which the injury, poisoning, and/or adverse effect was diagnosed and/or treated. If the E-code has been previously reported on a discharge or encounter record to the Office, the E-code should not be reported again on the encounter record. To assure uniform reporting of E-codes, when multiple codes are required to completely classify the cause, the first (principal) E-code shall describe the mechanism that resulted in the most severe injury, poisoning, or adverse effect.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128736 and 128737, Health and Safety Code.

HISTORY

1. New section filed 5-5-2005; operative 5-5-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).
2. Amendment filed 11-21-2006; operative 11-21-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 47).

§ 97261. Definition of Data Element for ED and AS—Other External Cause of Injury.

The external cause of injury consists of the ICD-9-CM codes E800-E999 (E-codes), that are codes used to describe the external causes of injuries, poisonings, and adverse effects. If the information is available in the medical record, E-codes sufficient to describe the external causes shall be reported for records with a principal and/or other diagnoses classified as injuries or poisonings in Chapter 17 of the ICD-9-CM (800-999), or where a code from Chapters 1-16 of the ICD-9-CM (001-799) indicates that an additional E-code is applicable, except that the reporting of E-codes in the range E870-E879 (misadventures and abnormal reactions) are not required to be reported. An E-code is to be reported on the record for the first episode of care reportable to the Office during which the injury, poisoning, and/or adverse effect was first diagnosed and/or treated. If the E-code has been previously reported on a discharge or encounter record to the Office, the E-code should not be reported again on the encounter record. If the principal E-code does not include a description of the place of occurrence of the most severe injury or poisoning, an E-code shall be reported to designate the place of occurrence, if available in the medical record. Additional E-codes shall be reported, if necessary to completely describe the mechanisms that contributed to, or the causal events surrounding, any injury, poisoning, or adverse effect.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128736 and 128737, Health and Safety Code

HISTORY

1. New section filed 5-5-2005; operative 5-5-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).
2. Amendment filed 11-21-2006; operative 11-21-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 47).

§ 97262. Definition of Data Element for ED and AS—Principal Procedure.

The patient's principal procedure is one that is surgical in nature, or carries a procedural risk, or carries an anesthetic risk. The procedure related to the principal diagnosis, as the chief reason for the encounter, shall be selected as the principal procedure. The procedure shall be coded according to the Current Procedural Terminology, Fourth Edition (CPT-4).

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128736 and 128737, Health and Safety Code.

HISTORY

1. New section filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97263. Definition of Data Element for ED and AS—Other Procedures.

All significant procedures are to be reported. A significant procedure is one that is surgical in nature, or carries a procedural risk, or carries an anesthetic risk. Procedures shall be coded according to the Current Procedural Terminology, Fourth Edition (CPT–4).

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128736 and 128737, Health and Safety Code.

HISTORY

1. New section filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97264. Definition of Data Element for ED and AS—Disposition of Patient.

The patient's disposition, defined as the consequent arrangement or event ending a patient's encounter in the reporting facility, shall be reported as one of the following:

(a) Discharged to home or self care (routine discharge).

(b) Discharged/Transferred to a short–term general hospital for inpatient care

(c) Discharged/Transferred to a skilled nursing facility (SNF) with Medicare certification in anticipation of covered skilled care.

(d) Discharged/Transferred to an intermediate care facility (ICF).

(e) Discharged/Transferred to another type of institution not defined elsewhere in this code list.

(f) Discharged/Transferred to home under care of an organized home health service organization in anticipation of covered skilled care.

(g) Left against medical advice or discontinued care.

(h) Expired.

(i) Discharged/Transferred to a Federal health care facility.

(j) Discharged home with hospice care.

(k) Discharged to a medical facility with hospice care.

(*l*) Discharged/Transferred to a hospital–based Medicare approved swing bed.

(m) Discharged/Transferred to an inpatient rehabilitation facility (IRF) including a rehabilitation distinct part unit of a hospital.

(n) Discharged/Transferred to a Medicare certified long term care hospital (LTCH).

(o) Discharged/Transferred to a nursing facility certified under Medicaid (Medi–Cal), but not certified under Medicare.

(p) Discharged/Transferred to a psychiatric hospital or psychiatric distinct part unit of a hospital.

(q) Discharged/Transferred to a Critical Access Hospital (CAH).

(r) Other.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128736 and 128737, Health and Safety Code.

HISTORY

1. New section filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).
2. Amendment of subsections (c), (e) and (f), repealer of subsection (h), subsection relettering and repealer and new subsection (q) filed 11–21–2006; operative 11–21–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 47).

§ 97265. Definition of Data Element for ED and AS—Expected Source of Payment.

The patient's expected source of payment, defined as the type of entity or organization which is expected to pay or did pay the greatest share of the patient's bill, shall be reported using the following categories:

(a) Self–pay. Payment directly by the patient, guarantor, relatives or friends. The greatest share of the patient's bill is not expected to be paid by any form of insurance or other third party.

(b) Other Non–Federal Programs. Include any form of payment from local, county, or state government agencies. Include payments from county funds, whether from county general funds or from other funds used to support county health programs. Include County Indigent Programs, County Medical Services Program (CMSP), California Healthcare for Indigent Program (CHIP), County Children's Health Initiative Program (C–CHIP), and Short–Doyle funds. Also include the State Children's Health Insurance Program (SCHIP), Managed Risk Medical Insurance Board (MRMIB), Healthy Families Program (HFP), and Access for Infants and Mothers (AIM).

(c) Preferred Provider Organization (PPO).

(d) Point of Service (POS).

(e) Exclusive Provider Organization (EPO).

(f) Health Maintenance Organization (HMO) Medicare Risk. Medicare is defined by Title XVIII of the Social Security Act (42 USC 1395 et seq.) and Title I of the Federal Medicare Act (PL 89–97). Include Medicare patients covered under an HMO arrangement.

(g) Automobile Medical. Include PPO, POS, EPO, HMO and Fee for Service or any other payment resulting from automobile coverage.

(h) Blue Cross/Blue Shield. Include only Fee for Service payments. Report PPO, POS, EPO, and HMO under the appropriate stated categories.

(i) CHAMPUS (TRICARE). Include any PPO, POS, EPO, HMO, Fee for Service, or other payment from the Civilian Health and Medical Program of the Uniformed Services or from TRICARE.

(j) Commercial Insurance Company. Report payment from insurance carriers on a Fee for Service basis. Exclude PPO, POS, and EPO, payments.

(k) Disability.

(*l*) Health Maintenance Organization (HMO). Report HMO payors. Include Knox–Keene licensed plans as well as out of State HMO plans. No Plan Code Number or Plan Code Name is required for ED or AS records. Report Medicare payments covered under an HMO arrangement as Health Maintenance Organization (HMO) Medicare Risk. Report Medi–Cal payments covered under an HMO arrangement as Medicaid.

(m) Medicare Part A. Defined by Title XVIII of the Social Security Act. Covers inpatient hospital stays, care in a skilled nursing facility, hospice care, and some home health care.

(n) Medicare Part B. Defined by Title XVIII of the Social Security Act. Covers some outpatient hospital care and some home health services.

(o) Medicaid. Medicaid is called Medi–Cal in California. Defined by Title XIX of the Social Security Act and Title I of the Federal Medicare Act (PL 89–97). Report all Medi–Cal including Fee for Service, PPO, POS, EPO, and HMO.

(p) Other Federal Program. Report federal programs not covered by any other category.

(q) Title V. Defined by the Federal Medicare Act (PL 89–97) for Maternal and Child Health. Title V of the Social Security Act is administered by the Health Resources and Services Administration, Public Health Service, Department of Health and Human Services. Include a Maternal and Child Health program payment that is not covered under Medicaid (Medi–Cal). California Children Services (CCS) payments should be reported here.

(r) Veterans Affairs Plan. Include any PPO, POS, EPO, HMO, Fee for Service, or other payment resulting from Veterans Administration coverage.

(s) Workers' Compensation Health Claim. Payment from Workers' Compensation Health Claim insurance should be reported under this category.

(t) Other. Include payment by governments of other countries. Include payment by local or organized charities, such as the Cerebral Palsy Foundation, Easter Seals, March of Dimes, Shriners, etc. Include payments not listed in other categories.

NOTE: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 128736 and 128737, Health and Safety Code.

HISTORY

1. New section filed 5–5–2005; operative 5–5–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 97266. Freestanding Ambulatory Surgery Encounter Fee Assessment.

(a) The Office shall mail an annual notice of special fee assessment, as provided in Section 90417, and a remittance advice form to each free-

standing ambulatory surgery clinic. The annual notice of special fee assessment and remittance advice form shall be mailed at least 20 days before the fee due date. The remittance advice form shall be completed by each surgical clinic and returned to the Office with full payment of the special fee amount. The fee shall be due on July 1st and delinquent on July 31st of each year. The basis of assessment is the number of ambulatory surgery data records submitted to the Office for encounters in the preceding calendar year.

(b) New surgical clinics which had no encounters in the previous calendar year are not liable for the initial special fee.

(c) New surgical clinics that have been operating for less than 12 months in the previous calendar year are liable for the special fee based on the number of ambulatory surgery data records submitted to the Office for encounters during the period of their licensed operations in the previous calendar year.

(d) Where there was a change in licensee during the prior calendar year, the current licensee shall be assessed a special fee based on the number of ambulatory surgery data records submitted to the Office for encounters that occurred during the time of their licensure.

(e) The Office shall determine the basis of assessment for special fee amounts due from surgical clinics in those circumstances not specifically covered above.

(f) To enforce payment of delinquent special fees, the Office shall notify the State Department of Health Services not to issue a license and not to renew the existing license of the delinquent surgical clinic until the special fees have been paid, pursuant to Section 127280, Health and Safety Code. A copy of the Office notice to the State Department of Health Services shall be sent to the delinquent surgical clinic.

NOTE: Authority cited: Sections 127150, 127280 and 128810, Health and Safety Code. Reference: Sections 127280 and 128737, Health and Safety Code.

HISTORY

1. New section filed 11-21-2006; operative 11-21-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 47).

Chapter 11. Alzheimer's Disease Institute Demonstration Project

(Interim Regulations)

Subchapter 1. Definitions

§ 97300.1. Accredited Record Technician.

Accredited record technician means a person who is accredited as such by the American Medical Record Association.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New Chapter 11 (Subchapters 1-13, Sections 97300.1-97434.9, not consecutive) filed 4-6-87 as an emergency; effective upon filing. This chapter was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97300.3. Activity Leader.

Activity leader means a person qualified by training and/or experience to develop and implement an activity program.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97300.5. Administrator.

Administrator means that person who is appointed, in writing, by the governing body of the Institute to carry out the policies of the Institute, except in those Subchapters or Sections where the term is otherwise defined.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97300.7. Advertisement.

Advertisement means a public notice used to create interest or induce purchase, including but not limited to television, radio, newspapers, telephone books, brochures and signs.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97300.9. All Settings.

All settings means the physical spaces, buildings or environments in which treatment, care, or supervision is provided to Institute patients.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97300.11. Alzheimer's Disease Institute.

An Alzheimer's Disease Institute is an entity, public or private, which has been designated as an Alzheimer's Disease Institute by the Office of Statewide Health Planning and Development.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97300.13. Alzheimer's Disease.

Alzheimer's disease is a brain disorder characterized by a progressive dementia that occurs in middle or late life. The pathologic characteristics are degeneration of specific nerve cells, presence of neuritic plaques, and neurofibrillary tangles.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97300.15. Ambulatory Patient.

Ambulatory patient means a patient who is able to leave a building unassisted under emergency conditions.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97300.17. Arranged For.

Services arranged for by the Institute are those services not provided directly by the Institute but provided to Institute patients, their families and/or caregivers pursuant to a contract or other written agreement between the Institute and a provider of services or care or supervision.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Sec-

tion 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.19. Art Therapist.

Art therapist means a person who has a master's degree in art therapy or in art education or psychology with major course work in art or art therapy, including an approved clinical internship in art therapy from an accredited college or university, and a person who is registered or eligible for registration as such with the American Art Therapy Association.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.21. Attending Physician.

Attending physician means a physician who is on the staff of the Institute or who has staff privileges and who has the responsibility for medical care of an individual Institute patient.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.23. Audiologist.

Audiologist means a person licensed as such by the California Board of Medical Quality Assurance or a person who has a master's degree in the field and is authorized to practice under the supervision of a licensed audiologist as outlined in Section 2530.5(f), Division 2, Chapter 5.3, Article 1, of the Business and Professions Code.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.25. Autoclaving.

Autoclaving means the process of sterilization by steam under pressure.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.27. Authorized Representative.

Authorized representative means a person authorized by law, by court order, or by a written statement signed by the patient, unless the patient has been legally deemed incompetent, to act on behalf of the patient.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.29. Biological.

Biological means a product, virus, serum, toxin, antitoxin or analogous product derived from living matter, which is applicable to the prevention, treatment or cure of disease or injuries in humans.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

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§ 97300.31. Caregivers.

Caregivers means those individuals who are not employees of the Institute and who provide care in a home setting to patients with Alzheimer's disease or related dementias.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.33. Case Manager.

The case manager means a person designated in writing by the Medical Director to conduct case management for specifically assigned patients who s a registered nurse licensed by the California Board of Registered Nursing and with a minimum of a bachelor's degree in nursing or an individual with a master's degree in social work.

NOTE: Authority cited: Section 1311.5 and 1312.7 Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.35. Case Management.

Case management means the continuous oversight and monitoring of the status of a patient and that patient's family and/or caregiver by one professional staff person.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.37. Cleaning.

Cleaning means the process employed to free a surface from dirt or other extraneous materials.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.39. Comprehensive Assessment.

Comprehensive assessment means the process for determining the complete range of needs of the patient with Alzheimer's disease or a related dementia and that person's family and/or caregivers.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.41. Conservator.

Conservator means a person appointed by a court to take care of the person, the property or both of a conservatee under Section 5350 et seq., of the Welfare and Institutions Code or under Section 1800 et seq., of the Probate Code.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.43. Consultant.

Consultant means a qualified person who gives professional advice or service, with or without remuneration.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.45. Continuum of Care.

Continuum of care means a series of variations in levels of care or types of services.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.47. Controlled Drugs.

Controlled drugs means those drugs covered under the Federal Comprehensive Drug Abuse Prevention Control Act of 1970, as amended, or the California Uniform Controlled Substances Act.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.49. Coordinated Clinical Interventions.

Coordinated clinical interventions means a series of clinical services arranged by the case manager and provided to the patient at the necessary time and place to meet the patient's needs.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.51. Dance Therapist.

Dance therapist means a person who has a master's degree in dance therapy including a clinical internship from an accredited college or university, or a person who is registered or eligible for registration as such by the American Dance Therapy Association.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.53. Dangerous Drug.

Dangerous drug means any drug defined as such in Section 4211 of the Business and Professions Code.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.55. Decubitus Ulcer.

Decubitus ulcer means an ulceration of skin and underlying tissue caused by pressure.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.57. Deficiency.

Deficiency means noncompliance with these regulations.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.59. Defined.

Defined means explained in writing.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.61. Dementia.

Dementia means a global decline in intellectual function in clear consciousness.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.63. Dentist.

Dentist means a person licensed as such by the California Board of Dental Examiners.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.65. Department.

Department means the State Department of Health Services.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.67. Designation Certificate.

Designation Certificate means the document issued by the Office authorizing the designee to operate as an Alzheimer's Disease Institute.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.69. Designee.

Designee means the legal entity, corporation, joint venture, partnership or individual that has been designated by the Office to operate an Institute.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.71. Diagnostic Evaluation.

Diagnostic evaluation means a biopsychosocial examination of the patient including an assessment of the family and a home visit, as appropriate.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.73. Dietetic Service—General.

Dietetic service means a service organized, staffed and equipped to assure that food served to patients is safe, appetizing and provided for their nutritional needs.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.75. Dietetic Service Supervisor.

Dietetic service supervisor means a person who meets one of the following requirements:

(a) Is a dietitian registered by the American Dietetic Association.

(b) Has a bachelor's degree with major studies in food and nutrition, dietetics, or food management and has one year of experience in the dietetic service of a health care institution.

(c) Is a graduate of a dietetic technician or dietetic assistant training program approved by the American Dietetic Association.

(d) Is a graduate of a state–approved program that provides 90 or more hours of classroom instruction in food service supervision.

(e) Has training experience in food service supervision and management in a military service equivalent in content to (c) or (d) of the above.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.77. Dietitian.

Dietitian means a person who is registered or eligible for registration as such by the American Dietetic Association.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.79. Differential Diagnosis.

Differential diagnosis means determining the type of dementia most probable or possible for an individual patient.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.81. Director.

Director means the Director of the Office of Statewide Health Planning and Development except in those Subchapters or Sections where otherwise defined.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.83. Disinfection.

Disinfection means the process employed to destroy harmful microorganisms, but ordinarily not viruses and bacterial spores.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.85. Distinct Part.

Distinct part means an identifiable unit accommodating beds or patients, including but not limited to contiguous rooms, a wing, floor or building, that is approved by the Office for a specific purpose.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.87. Drug.

(a) Drug means a medication.

(b) Legend drug means any of the following:

(1) Any drug labeled with the statement "Caution: Federal Law prohibits dispensing without prescription" or words of similar import.

(2) Any dangerous drug under Section 4211 of the Business and Professions Code.

(c) Psychotropic drug means a medication used to modify behavior.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.89. Drug Administration.

Drug administration means the act in which a single dose of a prescribed drug or biological is given to a patient. The complete act of administration entails removing an individual dose from a container (including a unit dose container), verifying the dose with the prescriber's orders, giving the individual dose to the patient and promptly recording the time and dose given.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.91. Drug Dispensing.

Drug dispensing means the act entailing the interpretation of a prescription order for a drug or biological and the proper selection, measuring, packaging, labeling and issuance of the drug or biological for a patient.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.93. Evaluation.

Evaluation means the measurement of the impact and effectiveness of the Alzheimer's Disease Institute demonstration project in providing appropriate and comprehensive services to patients with Alzheimer's disease and related dementias and their families and/or caregivers through an integrated continuum of services.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.95. Fomites.

Fomites means objects, or articles of clothing or material that are not in themselves contaminated but are able to harbor pathogenic microorganisms which may, by that means, be transmitted to others.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.97. Full–Time Equivalent.

Full–time equivalent means a summing of hours worked by part–time staff and divided by the 40 hours of a normal work week. The result can be expressed as numbers of F.T.E. staff.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.99. Governing Body.

Governing body means the person, persons, board of trustees, board of directors, or other body in whom the final authority and responsibility is vested for operation of the institute.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.103. Infectious Wastes.

Infectious wastes means:

(1) Significant laboratory wastes including pathological specimens which shall include all tissues, specimens of blood elements, excreta and secretions obtained from patients, and disposable articles or objects which may harbor or transmit pathogenic organisms.

(2) Surgical specimens, including human parts or tissues removed surgically.

(3) Equipment, instruments, utensils and articles or objects of a disposable nature, from the treatment, recovery and holding areas of patients with suspected or diagnosed communicable disease who, by nature of the disease, are required to be isolated by public health agencies.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.105. Inpatient.

Inpatient means a patient of an Alzheimer's Disease Institute who is admitted to the Skilled Nursing Services Unit or Intermediate Care Services Unit or Residential Care Services Unit or Hospice Care Services Unit on a residential basis.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.107. Inspection Visit.

Inpatient visit means the inspection conducted by Department staff, Office staff and/or staff of other State departments as appropriate to monitor compliance with the criteria and standards established by the Office pursuant to Sections 1311.5 and 1312.7 of the Health and Safety Code and this Chapter.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.109. Institute.

Institute means a designated Alzheimer's Disease Institute.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.111. Intake Management.

Intake management means the determination of whether a person can benefit from the Institute's programs and whether it is appropriate to admit that person.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.113. Integrated.

Integrated means the close coordination of all types of services and care to the Institute patient.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.115. Interdisciplinary Team.

Interdisciplinary team means a group of persons including but not limited to at least one representative from each of the following staff disciplines:

(a) Physician (Medical Director or designee);

(b) Social worker;

(c) Registered nurse;

(d) Psychologist.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.117. Intermediate Care Bed Classification.

Intermediate care bed classification means beds designated for patients requiring skilled nursing and supportive care on less than a continuous basis.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.119. Licensed Nurse.

Licensed nurse means a registered nurse or licensed vocational nurse.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.121. Licensed Vocational Nurse.

Licensed Vocational Nurse means a person licensed as such by the California Board of Vocational Nurse and Psychiatric Technician Examiners.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.123. Local Bank.

Local bank means any bank or any branch office of a bank which is in the vicinity of the Institute.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.125. Maintenance.

Maintenance means the upkeep of a building and equipment to preserve the original functional and operational state.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.127. Meaning of Words.

Words shall have their usual meaning unless the context or a definition clearly indicates a different meaning. Words used in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number. Shall means mandatory. May means permissive. Should means suggested and recommended.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.129. Mechanically Altered Diet.

Mechanically altered diet means a diet altered in texture.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.131. Medication.

Medication means any chemical compound, remedy or noninfectious biological substance, the action of which is not solely mechanical, which may be administered to patients by any route as an aid in the diagnosis, treatment, or prevention of disease or other abnormal condition, for relief of pain or suffering, or to control or improve any psychological or pathological condition. Products which contain medications but which are primarily used for cosmetic or other nonmedication purposes are not medications as defined above.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.133. Music Therapist.

Music therapist means a person who has a bachelor's degree in music therapy and who is registered or eligible for registration as such with the National Association for Music Therapy.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.135. Narrative Notes.

Narrative notes means a written record which relates, reports or reviews facts about a patient and which includes but is not limited to observations of patients, patients' reactions to care, and response to treatment.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.137. New Construction.

New construction means any of the following:

(a) New facilities.

(b) Additions to existing buildings.

(c) Conversions of existing building or portions thereof not currently licensed as a health facility.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.139. Nonambulatory Patient.

Nonambulatory patient means a patient who is unable to leave a building unassisted under emergency conditions.

(1) The term nonambulatory patient includes, but is not limited to, patients who depend upon mechanical aids such as crutches, walkers and wheelchairs.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.141. Nursing Unit.

Nursing unit means a designated inpatient care area of an Institute which is planned, organized, operated and maintained to function as a unit. It includes patients' rooms with adequate support accommodations, services, and personnel providing nursing care and necessary management of patients.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.143. Occupational Therapist.

Occupational therapist means a person who is a graduate of an occupational therapy curriculum accredited jointly by the Council on Medical Education of the American Medical Association and the American Occupational Therapy Association, and who is registered or who is eligible for registration by the American Occupational Therapy Association.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.145. Occupational Therapy Aide.

Occupational therapy aide means a person who, under the supervision of a registered occupational therapist, assists with occupational therapy services.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.147. Occupational Therapy Assistant.

Occupational therapy assistant means a person who is certified or eligible for certification as such by the American Occupational Therapy Association.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.149. Office.

Office means the Office of Statewide Health Planning and Development.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.151. Patient.

A patient means an individual admitted by an Alzheimer's Disease Institute to receive services.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Sec-

tion 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.153. Patient File.

Patient file means the central file kept for each patient.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.155. Permanently Converted.

Permanently converted means space which is not available for patient accommodation because the Institute has converted the patient accommodation space to some other use and such space could not be reconverted to patient accommodation within 24 hours.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.157. Pharmacist.

Pharmacist means a person licensed as such by the California Board of Pharmacy.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.159. Physical Therapist.

Physical Therapist means a person licensed as such by the California Board of Medical Quality Assurance.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.161. Physical Therapist Aide.

Physical therapist aide means a person who, under the direct supervision of the registered physical therapist, assists with physical therapy care.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.163. Physical Therapist Assistant.

Physical therapist assistant means a person who is approved as such by the Physical Therapy Examining Committee of the California Board of Medical Quality Assurance.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.165. Physician.

Physician means a person licensed as a physician and surgeon by the California Board of Medical Quality Assurance or by the Board of Osteopathic Examiners.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.167. Physician's Assistant.

Physician's assistant means a person who is certified as such by the Physician's Assistant Examining Committee of the California Board of Medical Quality Assurance.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.169. Plan of Corrections.

Plan of corrections means the report issued by Department staff listing the deficiencies found as a result of the inspection visit and the corrections necessary on the part of the Institute to be in compliance with this Chapter.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.171. Podiatrist.

Podiatrist means a person licensed as such by the California Board of Medical Quality Assurance.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.173. Program Administrator.

Program administrator means that person appointed in writing who is responsible for the operation of a type of services or types of services, and the patients at that type of services or types of services.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.175. Protocol.

Protocol means a model for the provision of a single type of services or care. The protocol may consist of a series of instructions to be followed or a set of treatments to be accomplished in a specific order.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312,Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.177. Provider.

A provider is an entity with which the Institute has a contract or other written agreement to provide one of the following types of services on behalf of the Institute:

(a) Social Day Care Services.
(b) Home Health Care Services.
(c) In-Home Supportive Services.
(d) Respite Care Services.
(e) Hospice Care Services.
(f) Referral Services.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.179. Psychiatrist.

Psychiatrist means a person who is licensed as a physician and surgeon by the California Board of Medical Quality Assurance or the Board of Osteopathic Examiners and who meets any of the following:

(a) Is certified or eligible for certification as a psychiatrist by the American Board of Psychiatry and Neurology,

(b) Is certified or eligible for certification as a psychiatrist by the American Osteopathic Board of Neurology and Psychiatry,

(c) Has specialized training and experience in psychiatry.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.181. Psychologist.

(a) Psychologist means a person licensed as such by the California Board of Medical Quality Assurance.

(b) Clinical psychologist means a psychologist licensed by the Board of Medical Quality Assurance who (1) possesses an earned doctorate degree in psychology from an educational institution meeting the criteria of Subdivision (b) of Section 2914 of the Business and Professions Code and (2) has at least two years of clinical experience in a multidisciplinary facility licensed or operated by this or another state or by the United States to provide health care, or, is listed in the latest edition of the National Register of Health Services Providers in Psychology, as adopted by the Council for the National Register of Health Service Providers in Psychology.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code. (Section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.183. Public Health Nurse.

Public health nurse means a person licensed as a registered nurse who possesses a public health nursing certificate issued by the Department.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.185. Qualified Applicant.

A qualified applicant means an entity which has demonstrated in its proposal that it would be able to meet the standards and criteria for operating an Alzheimer's Disease Institute.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1310.2, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.187. Recreation Therapist.

Recreation therapist means a person with specialization in therapeutic recreation who is registered or eligible for registration as such by the California Board of Park and Recreation Personnel or the National Therapeutic Recreation Society.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.189. Registered Nurse.

Registered nurse means a person licensed as such by the California Board of Registered Nursing.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.191. Registered Record Administrator.

Registered record administrator means a person who is registered as such by the American Medical Record Association.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.193. Registry Staff.

Registry staff means Institute staff personnel provided b) a placement service on a temporary or on a day–to–day basis.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.195. Related Dementias.

Related dementias means progressively deteriorating dementias, including but not limited to the following:

(1) Vascular dementia.
(2) Parkinson's and dementia.
(3) Pseudodementia/depression.
(4) Metabolic dementia.
(5) Alcoholic dementia.
(6) Amnestic syndrome.
(7) Pick's disease.
(8) Creutzfeld–Jakob disease.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.197. Research.

(a) Basic research means the study of the epidemiology, etiology and pathogenesis of Alzheimer's disease and related dementias.

(b) Clinical research means the study of clinical care and treatment and systems of care utilizing observations of patient behavior and/or other measurements of outcome.

(c) Applied research means the study of the delivery of, costs of and impact of services to patients with Alzheimer's disease and related dementias and their families and/or caregivers.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.199. Restraint.

Restraint means controlling a patient's physical activity in order to protect the patient or others from injury.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.203. Services Unit.

Services unit is that distinct part or area or areas of the Institute in which a type of services, as defined in Section 97300.229, is provided and/or administered.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.205. Services Unit Patient Health Record.

Services unit patient health record or patient's Unit health record means a record that organizes all services information on the care and treatment rendered to a patient in a unit.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.207. Skilled Nursing Care Bed Classification.

Skilled nursing care bed classification means beds designated for patients requiring skilled nursing care on a continuous and extended basis.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.209. Social Work Aide.

Social work aide means a staff person who receives orientation, on–the–job training and supervision from a social worker or a social work assistant.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.211. Social Work Assistant.

Social work assistant means a person with a baccalaureate degree in the social sciences or related fields who receives supervision, consultation and in–service training from a social worker.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.213. Social Worker.

Social worker means a person who:

(1) Has a master's degree in social work and is a graduate of a school of social work accredited or approved by the Council on Social Work Education, and who has one year of experience in the provision of services to the aged in any setting and who has special training in gerontology or,

(2) Is licensed as a clinical social worker by the Board of Behavioral Science Examiners.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.215. Speech Pathologist.

Speech pathologist means a person licensed as such by the California Board of Medical Quality Assurance or a person who has a master's degree in the field and is authorized to practice under the supervision of a licensed speech pathologist as outlined in section 2530.5(f) of Chapter 5.3 of the Business and Professions Code.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.217. Speech Therapist.

Speech therapist means a person licensed as such by the California Board of Medical Quality Assurance.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.219. Standing Orders.

Standing orders means those written orders which are used or intended to be used in the absence of a prescriber's specific order for a specific patient.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.221. Sterilization.

Sterilization means the process employed to destroy all living organisms.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.223. Supervision.

(a) Supervision means to instruct an employee or subordinate in their duties and to oversee or direct work, but does not necessarily require the immediate presence of the supervisor.

(b) Direct supervision means that the supervisor shall be present in the same building as the person being supervised, and available for consultation and assistance.

(c) Immediate supervision means that the supervisor shall be physically present while a task is being performed by the person being supervised.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.225. Therapeutic Diet.

Therapeutic diet means any diet modified from a regular diet in a manner essential to the treatment or control of a particular disease, illness or condition.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.227. Treatment and Management Plan.

Treatment and management plan means that plan established for each Institute patient by an interdisciplinary team.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.229. Type of Services.

A type of services means one of the following:

(a) Skilled Nursing Care Services.

(b) Intermediate Care Services.

(c) Outpatient Care Services.

(d) Day Health Care Services.

(e) Social Day Care Services.

(f) Home Health Care Services.

(g) In–Home Supportive Services.

(h) Respite Care Services.

(i) Hospice Care Services.

(j) Residential Care Services.

(k) Referral Services.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section file 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97300.231. Unit Dose Medication System.

Unit does medication system means a system in which single dosage units of drugs are prepackaged and prelabeled in accordance with all applicable laws and regulations governing these practices and are made available separated as to patient and by dosage time. The system shall also comprise, but not be limited to, all equipment and appropriate records deemed necessary to make the dose available to the patient in an accurate and safe manner. A pharmacist shall be in charge of and responsible for the system.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Subchapter 2. General Requirements

Article 1. Institute Administration

§ 97320.1. Administrator.

(a) Each Institute must have a full time administrator who may be a licensed nursing home administrator. If the administrator is not a licensed nursing home administrator, the administrator shall:

(1) Have a Master's Degree in business administration or a health field and,

(2) Have two years experience in administration of a health facility.

(b) If the administrator is to be absent for more than 30 consecutive days, the administrator shall appoint an acting administrator to carry out the day–to–day functions of the Institute.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97320.3. Designee—General Duties.

(a) The designee shall be responsible for compliance with designation requirements for the organization, management, operation and control of the Institute. The delegation of any authority by a designee shall not diminish the responsibilities of such designee.

(b) The designee, if qualified as an administrator, may act as the administrator or shall appoint an administrator to carry out the policies of the designee.

(c) The designee shall delegate to the designated administrator, in writing, authority to organize and carry out the day–to–day functions of the Institute.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97320.5. Designation.

(a) The designation by the Office of an Institute is not transferable, unless approved by the Office and shall remain in effect, unless the Office removes such designation for cause, until July 1, 1990, which is the repeal date of the Duffy Alzheimer's Disease Institute Act, or, if the Legislature deletes or extends that date, until such date as the act is repealed.

(b) No person, firm, partnership, association, corporation, joint venture, political subdivision of the state or other governmental agency shall establish, operate or maintain a designated Alzheimer's Disease Institute, or indicate, represent, or advertise by any means that it operates a designated Alzheimer's Disease Institute, without first obtaining a designation as an Alzheimer's Disease Institute from the Office.

(c) A licensed health care facility which provides Alzheimer's disease services and which is not designated under this article, shall not be precluded from holding out, advertising, or conducting those services or programs.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, 1312.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97320.7. Advertising.

No Institute shall make or disseminate false or misleading statements or advertise by any other manner or means any false or misleading claims regarding facilities or services provided.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97320.9. Data.

Each Institute shall provide the Office statistical data and patient information deemed necessary by the Office in accordance with procedures developed by the Office to ensure confidentiality of patient information.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.2, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97320.11. Equipment and Supplies.

(a) Equipment and supplies in each Institute shall be of the quality and in the quantity necessary for care of patients as ordered or indicated. At least the following items shall be provided and properly maintained at all times:

(1) Airways.
(2) Bedpans.
(3) Catheter equipment.
(4) Clerical supplies and equipment.
(5) Current drug reference which lists, for each drug administered in the Institute, indications for use, dosage range and side effects.
(6) Denture cups.
(7) Drug service trays and/or carts.
(8) Ear syringes.
(9) Emergency oxygen supply and equipment for administration.
(10) Emesis basins.
(11) Examination light.
(12) First aid supplies, as determined by the Patient Care Policy Committee.
(13) Flashlights.
(14) Gloves (sterile and unsterile).
(15) Ice caps.
(16) Intravenous therapy supplies if Institute provides such services.
(17) Medicine droppers.
(18) Medicine glasses, cups or other small containers which are accurately calibrated.
(19) Mortar and pestle.
(20) Rectal speculum.
(21) Refrigerator with accurate thermometer.
(22) Rubber tubing.
(23) Scales for weighing all patients.
(24) Shower and commode chairs, wheelchairs and walkers.
(25) Soap for bathing.
(26) Soap dishes or soap containers.
(27) Sphygmomanometers.
(28) Sterile dressings.
(29) Stethoscopes.
(30) Suction apparatus.
(31) Suture tray.
(32) Suture removal equipment.
(33) Syringes and needles.
(34) Test supplies necessary to perform urine sugar and acetone testing.
(35) Thermometers, oral and rectal.
(36) Tongue depressors.
(37) Urinals.
(38) Vaginal speculum.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97320.13. Consumer Information to Be Posted.

(a) The following consumer information shall be conspicuously posted in a prominent location accessible to the public.

(1) A copy of the Designation Certificate.
(2) Name and date of employment of the current administrator of the Institute.
(3) A listing of all types of services and special programs provided in the Institute and those provided through contracts or other written agreements. The listing will show the authorized number of patients for each type of services.
(4) The current and following week's menus for regular and therapeutic diets.
(5) A notice that the Institute's written admission and discharge policies are available upon request.
(6) The most recent inspection visit report as well as the related follow–up plan of corrections.
(7) The name and address of the designee, who may be a person, firm, partnership, association, joint venture, corporation or parent or subsidiary corporation.
(8) A listing of all skilled nursing and intermediate care facilities owned by the same person, firm, partnership, association, joint venture, corporation or parent or subsidiary corporation.
(9) A statement that an action to withdraw or suspend in whole or in part the designation of the Institute is pending, if such an action has been initiated by the Office, pursuant to Section 1311.2 of the Health and Safety Code, and the accusation has been served on the designee.
(10) A notice of the name, address and telephone number of the appropriate District Office of the Licensing and Certification Division, Department of Health Services.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97320.15. Required Committees.

(a) Each Institute shall have at least the following committees: Patient Care Policy, Infection Control and Pharmaceutical Service.

(b) Minutes of every committee meeting shall be maintained in the Institute and indicate names of members present, date, length of meeting, subject matter discussed and action taken.

(c) Committee composition and function shall be as follows:

(1) Patient Care Policy Committee.

(A) The Committee shall be composed of: at least one physician, the Institute administrator, the Director of Nursing Services, a pharmacist, the activity leader and representatives of each type of services as appropriate.

(B) The Committee shall meet at least quarterly. Minutes shall list policies established or reviewed and decisions reached.

(C) A Patient Care Policy Committee shall establish policies governing the following services: Physician, dental, nursing, dietetic, pharmaceutical, health records, housekeeping, activity programs and such additional services as are provided or arranged for by the Institute. The Committee shall review these services at least semi–annually.

(D) The Patient Care Policy Committee shall have the responsibility for reviewing and approving all policies relating to patient care. The Committee shall review patient care policies semi–annually and revise as necessary. The Committee shall also review all contracts for the provision of care to patients by a non–Institute provider. Based on reports received from the Institute administrator, the Committee shall review the

effectiveness of policy implementation and shall make recommendations for the improvement of patient care.

(2) Infection Control Committee.

(A) An Infection Control Committee shall be responsible for infection control policy in the Institute.

(B) The Committee shall be composed of representatives from the following services; physician, nursing, administration, dietetic, pharmaceutical, activities, housekeeping, laundry and maintenance and others as appropriate.

(C) The Committee shall meet at least quarterly.

(D) The functions of the Infection Control Committee shall include, but not be limited to:

1. Establishing, reviewing, monitoring and approving policies and procedures for investigating, controlling and preventing infections in the Institute.

2. Maintaining, reviewing and reporting statistics of the number, types, sources and locations of infections within the Institute.

(3) Pharmaceutical Service Committee.

(A) A Pharmaceutical Service Committee shall direct the pharmaceutical services in the Institute.

(B) The Committee shall be composed of the following: a pharmacist, the Director of Nursing Services, the Institute administrator and at least one physician.

(C) The Committee shall meet at least quarterly.

(D) The functions of the Pharmaceutical Service Committee shall include, but not be limited to:

1. Establishing, reviewing, monitoring and approving policies and procedures for safe procurement, storage, distribution and use of drugs and biologicals.

2. Reviewing and taking appropriate action on the pharmacist's quarterly report.

3. Recommending measures for improvement of services and the selection of pharmaceutical reference materials.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97320.17. Patient Care Policies and Procedures.

(a) Written patient care policies and procedures shall be established and implemented to ensure that patient related Institute goals and objectives are achieved.

(b) All patient care policies and procedures required by these regulations shall be in writing, made available upon request to physicians and other involved health professionals, patients or their representatives, employees and the public and shall be carried out as written. Policies and procedures shall be reviewed at least semi–annually, revised as needed and approved in writing by the Patient Care Policy Committee.

(c) Each Institute shall establish and implement policies and procedures, including but not limited to:

(1) Physician services policies and procedures which include:

(A) Orientation of new physicians to the Institute and changes in physician services and/or policies.

(B) Schedule of patient evaluation visits by the attending physician and documentation of alternate schedules for such visits.

(2) Nursing services policies and procedures which include:

(A) A current nursing procedure manual.

(B) Provision for the inventory and identification of patients' personal possessions, equipment and valuables.

(C) Procedures for screening of all patients for tuberculosis upon admission to inpatient service. These procedures shall be determined by the Patient Care Policy Committee.

(D) Notification of patient's physician regarding sudden or marked adverse change in patient's condition.

(E) Conditions under which restraints are used, the application of restraints, and the mechanism used for monitoring and controlling their use.

(3) Infection control policies and procedures.

(4) Dietary services policies and procedures which include:

(A) Provision for safe, nutritious food preparation and service.

(B) A provision for maintaining a current dietetic service procedure manual.

(5) Pharmaceutical services policies and procedures.

(6) Activity program policies and procedures.

(7) Housekeeping services policies and procedures which include provision for maintenance of a safe, clean environment for patients, employees and the public.

(8) Costs of care.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97320.19. Administrative Policies and Procedures.

(a) Written administrative, management and personnel policies shall be established and implemented to govern the administration and management of the Institute.

(b) All administrative, management, and personnel policies and procedures required by these regulations shall be in writing and shall be carried out as written. They shall be made available upon request to patients or their agents and to employees and the public. Policies and procedures shall be reviewed at least annually, revised as needed and approved in writing by the governing body or designee.

(c) Each Institute shall establish at least the following:

(1) Personnel policies and procedures which shall include:

(A) Written job descriptions detailing qualifications, duties and limitations of each classification of employee which shall be made available to all personnel.

(B) Provisions for employee orientation to the Institute, nature of Alzheimer's disease and related dementias, job, patient population, policies, procedures and staff.

(C) Provisions for staff development.

(D) Description of employee benefits.

(E) Description of employee health and grooming standards.

(F) Provisions for verification of licensure, credentials and references.

(2) Policies and procedures for patient admission, leave of absence, transfer, discharge, categories of patients accepted and retained, services included in the basic rate, types of services offered, charges for extra services, limitations of services, cause for termination of services and refund policies applying to termination of services.

(3) Policies and procedures for admission or discharge of a patient which state that a patient shall not be admitted or discharged on the basis of race, color, religion, sex, ancestry or national origin.

(4) Written policies and procedures governing patient's health records which shall be developed with the assistance of a person skilled in record maintenance and preservation.

(A) Policies and procedures governing access to, duplication of and dissemination of, information from the patient's health records.

(B) Policies and procedures to ensure the confidentiality of patient health information, in accordance with applicable laws and regulations.

(5) Policies and procedures to assure that the Institute accepts and retains only those patients for whom it can provide care.

(6) Procedures for reporting of unusual occurrences.

(d) The Institute shall maintain a current organizational chart showing the types of services of the Institute, the person in charge of each type of services, the lines of authority, responsibility, communication, and the staff assignments.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97320.21. Arranged for Services.

(a) When an Institute arranges for any type of services to be provided to patients or their families and/or caregivers, by any other provider of services, the arrangement shall be by contract or other written agreement.

(b) Any such contract or other written agreement for the provision of a type of services shall be approved in writing by the Office before the services are provided.

(c) If any such contract or other written agreement is for the provision of a type of services licensed by the State, the contract or written agreement must be with a licensed provider.

(d) Copies of affiliation agreements, contracts, or other written agreements for advice, consultation, services, training or transportation, with other facilities, organizations or individuals, or public or private agencies, shall be on file in the Institute's administrative office. These shall be readily available for inspection and review by the Office and the Department.

(e) Any contract or other written agreement for the provision of a type of services shall:

(1) Include the following general provisions:

(A) A description of the type of services to be provided.

(B) Financial arrangements.

(C) Conditions upon which the agreement or contract can be terminated.

(D) Time frame of the agreement or contract.

(E) Effective date of agreement or contract.

(F) Date agreement or contract was signed.

(2) Detail any special requirements that are imposed on the provider because of its affiliation with the Alzheimer's Disease Institute, including but not limited to the following:

(A) Record keeping.

(B) Data to be provided to the Institute, Office and Department.

(C) Program access to be provided to the Institute, Office and Department.

(D) Special programs or services related to Alzheimer's disease and related demetias.

(E) Responding to the special needs of patients with Alzheimer's disease and related dementias and their families and caregivers.

(3) For any non–licensed provider, require that the services be provided in accordance with the applicable Subchapter of this Chapter, and address each of the following:

(A) Staffing.

(B) Protection of patients' health and safety.

(C) Protection of patients' property.

(D) Physical plant requirements.

(E) Any other areas as appropriate or determined to be necessary by the Department or Office.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97320.23. Bonds.

(a) Each Institute shall file or have on file with the Department a bond issued by a surety company authorized to do business in California if the Institute is handling or will handle money in the amount of $25 or more per patient or $500 or more for all patients in any month. The amount of the bond shall be according to the following schedule:

(1) Total Amount Handled

Bond	*Required*
$750 or less	$1,000
$751 to $1,500	$2,000
$1,501 to $2,500	$3,000

(2) Every further increment of $1,000 or fraction thereof shall require an additional $1,000 on the bond.

(b) Each application for designation shall be accompanied by an affidavit on a form provided by the Department. The affidavit shall state whether the Institute handles or will handle money of patients and the maximum amount of money to be handled for:

(1) Any patient.

(2) All patients in any month.

(c) No Institute shall either handle money of a patient or handle amounts greater than those stated in the affidavit submitted by the Institute without first notifying the Department and filing a new or revised bond if requested.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97320.25. Reports and Monitoring.

(a) The Institute shall maintain records of program activities in each services unit, data on patients served, and financial expenditures. Before the Institute begins operations the Office will advise the Institute of the minimum record keeping and data collection requirements.

(b) Monthly reports covering the previous month's activities will be submitted to the Office containing required information and data.

(c) Institute records shall be open for review by the duly authorized representatives of the Office or the Department. Such representatives of the Office or the Department shall be allowed to monitor, assess, or evaluate the Institute's program operations and investigate complaints. These reviews may include audits, onsite observations and interviews of project staff and patients or their families. The Institute shall provide assurance to the Office and the Department that records and/or patient information will be available for inspection and will permit duly authorized representatives from either the Office or the Department access to the physical facilities of the Institute for such purposes.

(d) The Institute shall assure that any provider under contract or other written agreement to provide care to Institute patients, shall keep records of care to Institute patients. Such Institute patient records shall also be available for inspection by the duly authorized staff of the Office and Department and access to the physical facilities and Institute patient records of the providers and/or contractors shall be assured by the Institute.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.2, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97320.27. Agreement with School of Medicine.

(a) Each Institute shall, before commencing the admission of patients, have entered into an interagency agreement with a school of medicine under which the Institute will provide physical space and access to patients as needed for such programs.

(b) Programs shall include:

(1) Clinical research;

(2) Preclinical, clinical, and postgraduate training of health science students;

(3) Professional education of physicians, registered nurses, and other health care providers and health professionals;

(4) Education of the public, patients' families, and other caregivers; and

(c) The agreement will specify what additional services will be necessary to establish continuity of care for patients.

(d) The agreement will specify that all education and training programs shall emphasize the utilization of an interdisciplinary team approach to the care, treatment, and/or supervision of patients with Alzheimer's disease or related dementias.

(e) The agreement shall describe in detail the responsibilities of the Institute to provide sufficient space, equipment, and clerical staff for each program of research, training, and education.

(f) The agreement shall include the provisions for the obtaining of informed consent from patients or their representative prior to being used as subjects in any research, training, or education program.

(g) The agreement shall describe the size of each such program in the Institute, the availability of Institute patients, the nature of any charges, costs, reimbursements or billings, and whether the medical school faculty, residents or instructors shall receive separate remuneration for their participation in Institute programs described in this section.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.7, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97320.29. Research and Evaluation.

(a) The Institute shall have a research and evaluation program to appropriately implement the purposes of Section 1310.3 of the Health and Safety Code. The research and evaluation program shall be directed toward, but not limited to, the following issues on Alzheimer's disease and other related dementias:

(1) Epidemiology.

(2) Etiology and pathogeneses.

(3) Diagnosis.

(4) Clinical care.

(5) Treatment.

(6) Care of the family and/or caregiver.

(7) System of care.

(b) The research and evaluation program shall provide opportunities for basic and clinical research and shall encourage researchers and research institutions to participate in the Institute's research program.

(c) The research and evaluation program shall take appropriate steps to protect patients' rights and confidentiality.

(d) The Institute shall assist and cooperate in the Office's evaluation of the Institute's programs.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97320.31. Family Services.

(a) Family services that shall be provided by the Institute shall include but not be limited to:

(1) Assessment of the needs of the family including a home visit, as appropriate;

(2) Assistance with coordinated planning for the patient's care throughout the patient's illness;

(3) Structured support groups;

(4) Provision of referrals to appropriate community services, information about possible need to seek legal or financial advice on behalf of the patient, and education to encourage appropriate use of services;

(5) Information about possible genetic components of Alzheimer's disease and related dementias;

(6) Education to enable the family to assist the patient in the home setting as appropriate;

(7) Counseling services related to stress management and coping with the patient's illness, planning for the patient's death, decisions regarding use of extraordinary life support means and autopsy arrangements and counseling during the terminal stages of illness;

(8) Family therapy;

(9) Bereavement counseling.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 2. Patient Services Management

§ 97321.1. Services Provided.

(a) Each Institute shall directly provide the following types of services: skilled nursing care, intermediate care, day health care, outpatient care and residential care. Institutes shall also provide or arrange for home health care, in–home supportive services, respite care, social day care, and hospice care. Referral services shall also be provided.

(b) Specialty services to be provided on at least a consultative or contractual basis are the following: internal medicine, neurology, neurosurgery, psychiatry (preferably geriatric psychiatry).

(c) Case management services shall be provided to all patients so as to assure a coordinated continuum of care based on a plan submitted to and approved by the Office.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.3. Admission of Patients.

(a) The Institute shall admit only persons with Alzheimer's disease or related dementias unless the designation certificate provides for services to other persons.

(b) The Institute shall admit only persons over the age of 21.

(c) The Institute shall admit a patient only on orders of an Institute physician.

(d) The Institute shall admit and retain only those patients for whom it can provide adequate care.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.5. Intake Management.

Before being admitted to an Institute a person shall be screened through an intake management process in the following steps:

(a) Initial contact with the patient or family, by a member of the interdisciplinary team, shall determine if the applicant for admission shall be interviewed by the interdisciplinary team. If not, the applicant for admission shall be referred to other programs.

(b) The interdisciplinary team shall interview and determine whether the Institute has a program suitable for that applicant for admission. If not the applicant for admission shall be referred to other programs.

(c) If the interdisciplinary team determines that the applicant for admission would benefit from a program of the Institute, the interdisciplinary team may recommend to the physician team member that the applicant for admission be admitted. The physician shall have the final decision for admission. If the applicant is not admitted, the applicant shall be referred to other programs.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.7. Admissions.

(a) At the time the patient is admitted the admitting physician shall determine what type of services the patient needs and shall immediately order the appropriate type of services on a temporary basis.

(b) The admitting physician shall immediately order a diagnostic evaluation which shall be completed within five (5) business days.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.11. Clinical Diagnosis of Alzheimer's Disease.

(A) The criteria for the clinical diagnosis of PROBABLE Alzheimer's disease include:

(1) Dementia established by clinical examination and documented by the Mini–Mental Test, Blessed Dementia Scale, or some similar examination, and confirmed by neuropsychological tests;

(2) Deficits in two or more areas of cognition;

(3) Progressive worsening of memory and other cognitive functions;

(4) No disturbance of consciousness;

(5) Onset between ages 40 and 90, most often after age 65; and

(6) Absence of systemic disorders or other brain diseases that in and of themselves could account for the progressive deficits in memory and cognition.

(B) The diagnosis of PROBABLE Alzheimer's disease is supported by:

(1) Progressive deterioration of specific cognitive functions such as language (aphasia), motor skills (apraxia), and perception (agnosia);

(2) Impaired activities of daily living and altered patterns of behavior;

(3) Family history of similar disorders, particularly if confirmed neuropathologically; and

(4) Laboratory results of:

(a) Normal lumbar puncture as evaluated by standard techniques,

(b) Normal pattern or nonspecific changes in EEG, such as increased slow–wave activity, and

(c) Evidence of cerebral atrophy on CT with progression documented by serial observation.

(C) Other clinical features consistent with the diagnosis of PROBABLE Alzheimer's disease, after exclusion of causes of dementia other than Alzheimer's disease, include:

(1) Plateaus in the course of progression of the illness;

(2) Associated symptoms of depression, insomnia, incontinence, delusions, illusions, hallucinations, catastrophic verbal, emotional, or physical outburst, sexual disorders, and weight loss;

(3) Other neurologic abnormalities in some patients, especially with more advanced disease and including motor signs such as increased muscle tone, myoclonus, or gait disorder;

(4) Seizures in advanced disease; and

(5) CT normal for age.

(D) Features that make the diagnosis of PROBABLE Alzheimer's disease uncertain or unlikely include:

(1) Sudden, apoplectic onset;

(2) Focal neurologic findings such as hemiparesis, sensory loss, visual field deficits, and incoordination early in the course of the illness; and

(3) Seizures or gait disturbances at the onset or very early in the course of the illness.

(E) Clinical diagnosis of POSSIBLE Alzheimer's disease:

(1) May be made on the basis of the dementia syndrome, in the absence of other neurologic, psychiatric, or systemic disorders sufficient to cause dementia, and in the presence of variations in the onset, in the presentation, or in the clinical course;

(2) May be made in the presence of a second systemic or brain disorder sufficient to produce dementia, which is not considered to be the cause of the dementia; and

(3) Should be used in research studies when a single, gradually progressive severe cognitive deficit is identified in the absence of other identifiable cause.

(F) Criteria for diagnosis of DEFINITE Alzheimer's disease are:

(1) The clinical criteria for PROBABLE Alzheimer's disease.

(2) Histopathologic evidence obtained from a biopsy or autopsy.

(G) Classification of Alzheimer's disease for research purposes should specify features that may differentiate subtypes of the disorder, such as:

(1) Familial occurrence.

(2) Onset before age of 65.

(3) Presence of trisomy–21; and

(4) Coexistence of other relevant conditions such as Parkinson's disease.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.13. Comprehensive Assessment.

(a) If, after the diagnostic evaluation, it is determined that the patient does not have Alzheimer's disease or a related dementia, the patient will be discharged and referred to a non–Institute program.

(b) If, after the diagnostic evaluation, it is determined that the patient has a diagnosis of Alzheimer's disease (possible or probable) or a related dementia, the patient will be given a complete comprehensive assessment for the development of a treatment and management plan by the interdisciplinary team. In addition, the interdisciplinary team may require evaluation reports from the medical specialties of internal medicine, neurology, neurosurgery and psychiatry (preferably geriatric psychiatry) as appropriate. The patient at that time will be assigned to a case manager by the Medical Director.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.15. Treatment and Management Plan.

(a) A treatment and management plan shall be developed for each patient by the interdisciplinary team after the diagnostic evaluation and comprehensive assessment.

(1) The patient's family physician or referring physician may be invited to participate in the development of the treatment and management plan.

(2) The treatment and management plan shall be signed by the physician member of the interdisciplinary team within five (5) business days after the diagnostic evaluation is complete.

(b) The treatment and management plan will contain, but not be limited to, the following medical information, treatment protocols and recommendations:

(1) Diagnosis.

(2) Types of services and care prescribed for the patient, family and/or caregiver.

(3) Physical health status and prescribed medications.

(4) Psychosocial health status.

(5) Written and signed orders for diet and diagnostic tests.

(6) Management of behavioral problems.

(c) Based upon the treatment and management plan, appropriate services and placement shall be ordered for the patient, family and/or caregiver.

(d) The following subjects shall be considered for discussion with the patient and family and/or caregiver. Appropriate notations may be made in the treatment and management plan.

(1) Family understanding of the Institute's programs.

(2) Family participation with the interdisciplinary team in the development of a treatment and management plan and in the discussion of the extent to which extraordinary life support systems will be used in the terminal stages of Alzheimer's disease or related dementias.

(3) Research programs.

(4) A plan for continuing involvement of the family in the patient's care.

(5) Family understanding that a diagnosis of Alzheimer's disease cannot be confirmed without an autopsy.

(6) The need for family services as outlined in Section 97320.31.

(7) Financial needs.

(8) Possible need to seek legal advice and review legal issues relevant to a patient with dementia.

(9) Home and living arrangements.

(10) Program options available from the Institute and/or other community resources.

(11) Genetic counseling.

(e) Each treatment and management plan shall be reviewed and updated by the case manager after consultation with the interdisciplinary tam and with staff of the unit or units from which the patient receives services, as frequently as the patient's condition warrants and at least every 60 days.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.17. Needs of Patients.

In determining the needs of the patient, the Institute shall, wherever available, obtain and utilize the following information relating to the patient:

(1) Diagnosis and recommendation of type of services from the patient's private physician.

(2) Comments from any social worker, registered nurse or other health professional acquainted with the social, emotional and physical or medical needs of the patient.

(3) Any social service or special rehabilitative needs.

(4) Need for special nursing care.

(5) Social history and living habits obtained from the patient or family.

(6) Preference for location of placement, including the family's preference.

(7) Financial resources and limitations.

(8) Religious, cultural, dietary and activity preferences.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.19. Admission Records.

(a) For each patient the Institute shall complete an admission record which shall include the following:

(1) Name and Social Security number.

(2) Current address.

(3) Age and date of birth.

(4) Sex.

(5) Date of admission.

(6) Name, address and telephone number of guardian, authorized representative, person or agency responsible for patient.

(7) Name, address and telephone number of next of kin.

(8) Name, address and telephone number of attending physician.

(9) Name, address and telephone number of the designated alternate physician.

(10) Admission diagnoses, known allergies and complete health history.

(11) Medicare and Medi–Cal numbers when appropriate.

(b) For each inpatient the admission record shall include in addition to items specified in subsection (a) above, an inventory including but not limited to:

(1) Items of jewelry.

(2) Items of furniture.

(3) Radios, television and other appliances.

(4) Prosthetic and orthopedic devices.

(5) Other valuable items, so identified by the patient's family or authorized representative.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.21. Patient Identification.

(a) Each inpatient shall be provided with a wristband identification tag or other means of identification which shall be worn at all times unless the attending physician notes in the health record that the patient's condition would not permit such identification. Minimum information shall include the name of the patient and the name, address and telephone number of the Institute.

(b) All other patients shall be provided with a name identification badge which shall be worn at all times while receiving services except at home or when otherwise inappropriate. Minimum identification shall include the name of the patient and the name, address and telephone number of the Institute.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.23. Patients' Health Records.

(a) Records shall be permanent, either typewritten or legibly written in ink, be capable of being photocopied and shall be kept on all patients. All health records of discharged patients shall be completed and filed within 30 days after discharge date and such records shall be kept for a minimum of 7 years. All exposed X–ray film shall be retained for seven years. All required records, either originals or accurate reproductions thereof, shall be maintained in such form as to be legible and readily available upon the request of the attending physician, the Institute staff or any authorized officer, agent, or employee of either, duly authorized representatives of the Office or Department or any other person authorized by law to make such request.

(b) Information contained in the health records shall be confidential and shall be disclosed only to authorized persons in accordance with federal, state and local laws.

(c) If an Institute ceases operation, the Office and the Department shall be informed within three business days by the designee of the arrangements made for the safe preservation of the patients' health records.

(d) The Department shall be informed within three business days, in writing, whenever patients' health records are defaced or destroyed before termination of the required retention period.

(e) Patients' health records shall be current and kept in detail consistent with good medical and professional practice based on the service provided to each patient. Such records shall be filed and maintained in accordance with these requirements and shall be available for review by the Department. All entries in the health record shall be authenticate with the date, name, and title of the persons making the entry.

(f) All current clinical information pertaining to a patient's stay shall be centralized in the patient's health record.

(g) The patient's health record will be part of the central patient file.

(h) Patients' health records shall be filed in an accessible manner in the Institute or in health record storage. Storage of records shall provide for prompt retrieval when needed for continuity of care. Health records can be stored off the Institute premises only with the prior approval of the Department.

(i) The patient's health record shall not be removed from the Institute, except for storage after the patient is discharged, unless expressly and specifically authorized by the Department.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.25. Content of Health Records.

(a) The Institute shall maintain for each patient a health record which shall include:

(1) Admission record.

(2) Current report of physical examination, and evidence of tuberculosis screening.

(3) Current diagnoses.

(4) Physician orders, including drugs, treatment and diet orders, progress notes, signed and dated on each visit. Physician's orders shall be correctly recapitulated.

(5) Nurses' notes which shall be signed and dated. Nurses' notes shall include:

(A) Records made by nurse assistants, after proper instruction, which shall include:

1. Care and treatment of the patient.

2. Narrative notes of observation of how the patient looks, feels, eats, drinks, reacts, interacts and the degree of dependency and motivation toward improved health.

3. Notification to the licensed nurse of changes in the patient's condition.

(B) Meaningful and informative nurses' progress notes written by licensed nurses as often as the patient's condition warrants. However, weekly nurses' progress notes shall be written by licensed nurses on each skilled nursing care and intermediate care patient and shall be specific to the patient's needs, the patient's nursing care plan and the patient's response to care and treatments.

(C) Name, dosage and time of administration of drugs, the route of administration or site of injection, if other than oral. If the scheduled time is indicated on the record, the initials of the person administering the dose shall be recorded, provided that the drug is given within one hour of the scheduled time. If the scheduled time is not recorded, the person administering the dose shall record both initials and the time of administration. Medication and treatment records shall contain the name and professional title of staff signing by initials.

(D) Justification for and the results of the administration of all PRN medications and the withholding of scheduled medications.

(E) Record of type of restraint and time of application and removal. The time of application and removal shall not be required for postural supports used for the support and protection of the patient.

(F) Medications and treatments administered and recorded as prescribed.

(G) Documentation of oxygen administration.

(6) Temperature, pulse, respiration and blood pressure notations when indicated.

(7) Laboratory reports of all tests prescribed and completed.

(8) Reports of all X–rays prescribed and completed.

(9) Progress notes written and dated by the case manager at least quarterly.

(10) Discharge planning notes when applicable.

(11) If a patient receives meals at the Institute, observation and information pertinent to the patient's diet recorded in the patient's Unit health record by the dietitian, nurse or food service supervisor.

(12) If the patient is receiving therapy, records of each treatment given by the therapist, weekly progress notes and a record of reports to the physician after the first 2 weeks of therapy and at least every 30 days thereafter.

(13) Progress notes written by the social service worker if the patient is receiving social services.

(14) Other progress notes by any other health professional treating the patient.

(15) Consent forms for prescribed treatment and medication not included in the admission consent for care.

(16) Condition and diagnoses of the patient at time of discharge or final disposition.

(17) A copy of the transfer form when the patient is transferred to another health facility.

(18) An inventory of each inpatient's personal effects and valuables as defined in Section 97321.19 made upon admission and discharge. The inventory list shall be signed by a representative of the Institute and the patient or their authorized representative with one copy to be retained by each.

(19) If a patient is transferred from the Institute the name, complete and address and telephone number of the new facility or program.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.27. Patients' Care Plan.

(a) Each service unit of the Institute shall develop and maintain a patient care plan for each patient which will detail the day–to–day needs of the patient, be developed by unit staff in accord with the treatment and management plan (a copy of which shall be kept with each inpatient care plan) and be reviewed when the treatment and management plan is reviewed and revised as necessary.

(b) The care plan will contain the services unit health record which will contain all progress notes made by unit staff and other health professionals providing any treatment or care to the patient.

(c) Copies of the patient's care plan shall be maintained in the central patient file.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.29. Patients' Rights.

(a) Written policies regarding the rights of patients shall be established and shall be available to the patient, to any conservator, next of kin or sponsoring agency and to the public. Such policies and procedures shall ensure that each patient admitted to the Institute shall have the following rights and be notified of the Institute's obligations:

(1) To be fully informed, as evidenced by the patient's written acknowledgement prior to or at the time of admission and during stay, of these rights and of all rules and regulations governing patient conduct.

(2) To be fully informed, prior to or at the time of admission and during stay, of services available in the Institute and of related charges, including any charges for services not covered by the Institute's basic per diem rates or not covered under Titles XVIII or XIX of the Social Security Act.

(3) To be fully informed by a physician of his or her medical condition, unless medically contraindicated, and to be afforded the opportunity to participate in the planning of medical treatment or other health care, and to refuse to participate in experimental research.

(4) To refuse treatment, care, supervision or any other service to the extent permitted by law, and to be informed of the medical consequences of such refusal.

(5) To be transferred or discharged only for medical reasons, or for the patient's welfare or that of other patients or for nonpayment for his or her stay, or if the interdisciplinary team determines that the patient should be transferred and to be given reasonable advance notice to ensure orderly transfer or discharge. Such actions shall be documented in the patient's health record.

(6) To be encouraged and assisted throughout the period of stay to exercise rights as a patient and as a citizen, and to this end, to voice grievances and recommended changes in policies and services to Institute staff and/or outside representatives of the patient's choice, free from restraint, interference, coercion, discrimination or reprisal.

(7) To manage personal financial affairs, or to be given at least a quarterly accounting of financial transactions made on the patient's behalf should the Institute accept written delegation of this responsibility subject to the provisions of Section 97321.31.

(8) To be free from mental and physical abuse and to be free from chemical and (except in emergencies) physical restraints except as authorized in writing by a physician or other person lawfully authorized to prescribe care for a specified and limited period of time, or when necessary to protect the patient from injury to the patient or to others.

(9) To be assured confidential treatment of personal and medical records and to approve or refuse their release to any individual outside the Institute except in the case of transfer to another health facility, or as required by law or this Chapter, or by a third party payment contract.

(10) To be treated with consideration, respect and full recognition of dignity and individuality, including privacy in treatment and in care of personal needs.

(11) Not to be required to perform services for the Institute that are not included for therapeutic purposes in the patient's plan of care.

(12) To associate and communicate privately with persons of the patient's choice, and to send and receive personal mail unopened, unless medically contraindicated.

(13) To meet with others and participate in activities of social, religious and community groups, unless medically contraindicated.

(14) To retain and use personal clothing and possessions as space permits, unless to do so would infringe upon rights of other patients or unless medically contraindicated.

(15) If married, to be assured privacy for visits by the patient's spouse and if both the patients are inpatients, and assigned to the same services unit, to be permitted to share a room, unless medically contraindicated.

(16) To have daily visiting hours established.

(17) To have visits from members of the clergy at any time at the request of the patient or the patient's conservator.

(18) To allow relatives, or persons responsible, to visit critically ill patients at any time, unless medically contraindicated.

(19) To be allowed privacy for visits with family, friends, clergy, social workers or for professional or business purposes.

(20) To have reasonable access to telephones and to make and receive confidential calls.

(b) A patient's rights, as set forth above, may be denied or limited only for good cause which shall be evidenced by the written order of the attending physician, and may only be denied or limited if such denial or limitation is otherwise authorized by law. Reasons for denial or limitation of such rights shall be documented by the attending physician in the patient's Unit health record.

(c) All rights specified in Section 97321.29(a)(1) through (4) as they pertain to a patient adjudicated incompetent in accordance with state law or to a patient who is found by the attending physician to be medically incapable of understanding these rights shall devolve to such patient's conservator, next of kin, or sponsoring agency.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.31. Safeguards for Patients' Monies and Valuables.

(a) Each Institute to which a patient's money or valuables have been entrusted shall comply with the following:

(1) No designee shall mingle patients' monies or valuables with that of the designee or the Institute. Patients' monies and valuables shall be maintained separately, intact and free from any liability that the designee incurs in the use of the designee's or the Institute's funds. The provisions of this section shall not be interpreted to preclude prosecution for the fraudulent appropriation of patients' monies or valuables as theft, as defined by Section 484 of the Penal Code.

(2) Each designee shall maintain safeguards and accurate records of patients' monies and valuables entrusted to the designee's care, for each patient, including the maintenance of a detailed inventory and at least a quarterly accounting of financial transactions made on the patient's behalf.

(A) Records of patients' monies which are maintained as a drawing account shall include a control account for all receipts and expenditures, supporting vouchers and receipts for all expenditures of monies and valuables entrusted to the designee, an account for each patient and supporting vouchers filed in chronological order. Each account shall be kept current with columns for debits, credits and balance. All of these records shall be maintained at the Institute for a minimum of three years from the date of transaction. At no time may the balance in a patient's drawing account be less than zero.

(B) Records of patients' monies and other valuables entrusted to the designee for safekeeping shall include a copy of the receipt furnished to the patient or to the patient's authorized representative. Each item of patient property entrusted to the designee shall be clearly identified as belonging to that patient.

(3) Patients' monies not kept in the Institute shall be deposited in a demand trust account in a local bank authorized to do business in California, the deposits of which are insured by the Federal Deposit Insurance Corporation, or in a federally insured bank or savings and loan association under a plan approved by the Department. All banking records related to these funds, including but not limited to deposit slips, checks, canceled checks, statements and check registers, shall be maintained in the Institute for a minimum of three years from the date of transaction. Identification as a patient trust fund account shall be clearly printed on each patient's trust account checks and bank statements.

(4) A separate list shall be maintained for all checks from patient funds which are, or have been, outstanding for 45 days or more as reflected on the most recent bank statement. Bank statements shall be reconciled monthly with copies of the reconciliation maintained by the Institute. Any checks on such accounts which have been written off or uncashed shall result in an addition to the appropriate patient's account.

(5) Expenditures, for a particular patient, from the patient fund account as specified in (3) above may not exceed the drawing right that the patient has in the account. Expenditures from the patient fund account shall only be for the immediate benefit of that particular patient. No more than one

month's advanced payment for care may be received from a patient's account.

(6) Any person, firm, partnership, joint venture, association or corporation which is licensed to operate health facilities in addition to the Institute shall maintain a separate demand trust account as specified in (3) above for each such facility. Records relating to these accounts shall be maintained at each facility as specified in (2) above. Patient funds from the Institute shall not be mingled with funds from another facility.

(7) When the amount of patients' money entrusted to a designee exceeds $500, all money n excess of $500 shall be deposited in a demand trust account as specified in (3) and (5) above unless the designee provides a fireproof safe and the designee desires the protection accorded by Section 1860 of the Civil Code.

(8) Upon discharge of a patient, all money and valuables of that patient which have been entrusted to the designee and kept within the Institute shall be surrendered to the patient or authorized representative in exchange for a signed receipt. Monies in a demand trust account or with the county treasurer shall be made available within three normal banking days. Upon discharge, the patient or authorized representative shall be given a detailed list of personal property and a current copy of the debits and credits of the patient's monies.

(9) Within 30 days following the death of a patient, except in a coroner or medical examiner case, all money and valuables of that patient which have been entrusted to the designee shall be surrendered to the person responsible for the patient or to the executor or the administrator of the estate in exchange for a signed receipt. Whenever a patient without known heirs dies, written notice, within five working days, shall be given by the Institute to the public administrator of the county as specified by Section 1145 of the California Probate Code and a copy of said notice shall be available in the Institute for review by the Department.

(10) Upon change of ownership of an Institute, there shall be a written verification by a public accountant of all patients' monies which are being transferred to the custody of the new owner(s). A signed receipt for the amount of funds in the patients' trust account shall be given by the new owner to the previous owner.

(11) Upon closure of an Institute a written verification by a public accountant of all patients' monies shall be available for review by the Department. Each patient's monies shall be transferred with the patient.

(b) If property is purchased for use of more than one patient, from patient trust funds, the Institute shall secure a written agreement between all patients whose funds are used, or their authorized representatives. The agreement shall expressly acknowledge consent of all parties and shall provide for disposition of the property in the event of disagreements, discharge, transfer or death.

(c) No designee, owner, administrator, employee, or any immediate relative or representative of the aforementioned may act as an authorized representative of patients' monies or valuables, unless the patient is a relative within the second degree of consanguinity.

(d) The Institute shall make reasonable efforts to safeguard patients' property and valuables that are in possession of the patient.

(e) For purposes of this section, patients' funds maintained in a financial institution shall be deemed to be entrusted to an Institute if the designee, or any agent or employee thereof, is an authorized signatory to said account. Records maintained and provided by the financial institution in accordance with a plan which has been approved in writing by the Department, may fulfill the obligation of the Institute with regard to the maintenance of records for such funds.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.33. Patient Transfer.

(a) The Institute shall maintain written transfer agreements with other nearby health facilities as appropriate to make the services of those facilities accessible and to facilitate the transfer of patients. Complete and accurate patient information, in sufficient detail to provide for continuity of care, shall be transferred with the patient at time of transfer.

(b) When a patient is transferred to another facility, the following shall be entered in the patient health record:

(1) The date, time, condition of the patient and a written statement of the reason for the transfer.

(2) Informed written or telephone acknowledgement by the patient, patient's guardian or authorized representative except in an emergency or as provided in Section 97321.29(a)(5).

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.35. Bed or Services Unit Space Hold.

(a) If a patient of an Institute is transferred to a general acute care hospital as defined in Section 1250(a) of the Health and Safety Code, the Institute shall afford the patient a bed or services unit space hold of seven (7) days which may be exercised by the patient or the patient's representative.

(1) Upon transfer to a general acute care hospital, the patient or the patient's representative shall notify the Institute within twenty–four (24) hours after being informed of the right to have the bed or services unit space held, if the patient desires the bed or services unit space held.

(2) Any patient who exercises the bed or services unit space hold option shall be liable to pay reasonable charges, not to exceed the patient's daily rate for care in the Institute, for bed or services unit space hold days.

(3) If the patient's attending physician notifies the Institute in writing that the patient's stay in the general acute care hospital is expected to exceed seven (7) days, the Institute shall not be required to maintain the bed or services unit space hold.

(b) Upon admission of the patient to the Institute and upon transfer of the patient of an Institute to a general acute care hospital, the Institute shall inform the patient, or the patient's representative, in writing of the right to exercise this bed or services unit space hold provision. Each notice shall include information that a patient will be liable for the cost of the bed or services unit space hold days, and that insurance may or may not cover such costs.

(c) An Institute who fails to meet these requirements shall offer to the patient the next available bed or services unit space appropriate for the patient's needs. This requirement shall be in addition to any other remedies provided by law.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.37. Liability for Rent and Return of Rental Advance.

(a) Whenever accommodations in an Institute are rented by or for a patient on a month to month basis, the renter or his heir, legatee or personal representative shall not be liable for any rent due under the rental agreement for accommodations beyond the date on which the patient died.

(b) Any advance of rent by the renter shall be returned to the heir, legatee or personal representative of the patient no later than two weeks after discharge or death of the patient.

(c) The rights described in (a) and (b) above shall not be modified or waived in the rental agreement.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.39. Patient Death Reports.

(a) All patients' deaths shall be reported by the designee to the Department. The report shall be made accurately at a time and in such a manner as may be requested by the Department or its designee.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.41. Central Patient File.

(a) The Institute shall maintain one central file for each patient which shall contain all records, data, plans and any other information relating to the patient. Copies of any records of treatment or nursing care plans or care plans, maintained in conjunction with the provision of any type of services shall be transferred to the central file at reasonable intervals of time.

(b) The patient file shall include but not be limited to:

(1) Treatment and management plan.

(2) Health records, including admission records.

(3) Nursing care plan.

(4) Evaluation of the patient and review of orders for care and treatment when there is a change in the patient's attending physician.

(5) Activity plan.

(6) Copies of patient's care plan including services unit health record.

(7) Other plans as necessary.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.43. Dietetic Service—Food Service.

(a) The dietetic service shall provide food to all inpatients of the quality and quantity necessary to meet each inpatient's needs in accordance with the physicians' orders and to meet the "Recommended Dietary Allowances," the most current edition, which is the 1980 revision, adopted by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences, 2107 Constitution Avenue, Washington, D.C. 20418 and meet the following standards for all inpatients of the Institute:

(1) Not less than 3 meals shall be served daily.

(2) Not more than 14–hours shall elapse between the evening meal and breakfast of the following day.

(3) Nourishments or between–meal feeding shall be provided as required by the diet prescription. Bedtime nourishments shall be offered to all patients unless contraindicated.

(4) Patient food preferences shall be adhered to as much as possible and substitutes for all food refused shall be from appropriate food groups. Condiments such as salt, pepper or sugar shall be available at each meal unless contraindicated by the diet order.

(5) Table service shall be provided for all patients who can and wish to eat at a table. Tables of appropriate height shall be provided for patients in wheelchairs.

(6) No food ordered for the Institute shall be diverted or taken from the Institute. No rebates shall be received or allowed to the Institute or its owners, directors, officers or employees from any commercial food source.

(7) When food is provided by an outside commercial food service, the Institute shall ensure that all federal, state and local requirements are met. The Institute shall maintain a written plan, adequate space, equipment and food supplies to provide food service to patients in emergencies.

(8) Recipes for all items that are prepared for regular and therapeutic diets shall be available and used to prepare attractive and palatable meals, in which nutritive values, flavor and appearance are conserved. Food shall be served attractively, at appropriate temperatures with appropriate eating utensil and in a form to meet individual needs.

(b) When meals are served in the Day Health Care Services Unit, Social Day Care Services Unit, the Outpatient Care Services Unit, or in any other Institute program in which patients are not residents of the Institute, such meals shall meet the following:

(1) All food shall be selected, stored, prepared and served in a safe and healthful manner.

(2) Each patient who is in the Institute for four hours or more shall be served a meal that will supply at least one–third of the National Research Councils Recommended Dietary Allowances.

(3) Each patient who is in the Institute for eight hours shall be served a meal and between–meal nourishments that will supply at least one–half of the National Research Council's Recommended Dietary Allowances.

(4) Each patient receiving care for periods longer than eight hours shall be served at least two meals and between meal nourishments.

(5) Any patient accepted at 7:00 a.m. or earlier shall be served a nourishing breakfast unless it has been determined that the patient has received a meal prior to arrival.

(6) Therapeutic diets shall be provided for each patient whose diet has been prescribed by the patient's physician as a medical necessity.

(7) The diet order for each patient shall be reviewed every 90 days by a dietitian and approved by the interdisciplinary team when reassessment is done.

(8) When food is provided by an outside commercial food service, the applicable requirements shall be met. Equipment and employees to receive and serve the food and for cleanup shall be provided. Equipment for in–house preparation and service of food in emergencies shall be maintained.

(9) When prepared food and beverages are obtained from a food management service, the food management service shall be approved in accordance with federal, state and local requirements. The Institute shall obtain from the food management service evidence of such approval. The food management service shall supply evidence to the Institute that menus are planned by a qualified dietitian.

(10) When low–sodium and low–cholesterol diets are provided through Older Americans Act nutrition sites, the Unit's staff shall meet with the nutrition site dietitian to adjust menus to provide for special dietary requirements of patients.

(c) A current profile card shall be maintained for each patient, indicating diet order, likes, dislikes, allergies to foods, diagnosis and instructions or guidelines to be followed in the preparation and serving of food for the patient.

(d) All regular and therapeutic diets shall be prescribed by a person lawfully authorized to give such an order. Verbal orders may be received and recorded by a qualified dietitian and shall be signed by the prescriber within five days.

(e) Foods shall be prepared by methods that conserve nutritive value, flavor and appearance and shall be served at appropriate temperatures.

(f) A dining area equipped for serving at meal time shall be provided.

(g) Dishes, beverage containers and eating utensils appropriate for use with the food being served shall be provided.

(h) Each patient shall be seated for meals on an individual chair, at a table, or as appropriate if the patient is in a wheelchair.

(i) Each patient shall be assisted by employees during meals as needed.

(j) Special equipment and utensils shall be provided for self–help in eating as needed.

(k) Sufficient food shall be prepared to provide additional servings as requested by the patient served, unless the patient is on a restricted diet prescribed by a physician.

(l) When necessary, food shall be cut, chopped or ground to meet the needs of the individual patients.

NOTE: Authority cited. Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.45. Dietetic Service—Diet Manual.

A current therapeutic diet manual, approved by the dietitian and the Patient Care Policy Committee, shall be readily available to the attending physician, nursing and dietetic personnel. It shall be reviewed annually and revised at least every five years.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.47. Dietetic Service—Policies and Procedures.

Manuals of dietetic service policies and of procedures to implement the policies shall be available to all personnel concerned with dietetic services. Manuals shall be developed and kept current with the assistance of the dietitian in cooperation with appropriate staff from other services when overlapping functions occur.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.49. Dietetic Service—Therapeutic Diets.

Therapeutic diets shall be provided for each patient as prescribed and shall be planned, prepared and served with supervision and/or consultation from the dietitian. Persons responsible for therapeutic diets shall have sufficient knowledge of food values to make appropriate substitutions when necessary.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.51. Dietetic Service—Menus.

(a) Menus for regular, modified and/or therapeutic diets shall be written at least one week in advance, dated and posted in the kitchen at least one week in advance.

(b) All menus shall be approved by the dietitian.

(c) If any meal served varies from the planned menu, the change and the reason for the change shall be noted in writing on the posted menu in the kitchen.

(d) Menus shall provide a variety of foods and indicate standard portions at each meal. Menus shall be varied for the same day of consecutive weeks. If a cycle menu is used, the cycle shall be of no less than three weeks duration and shall be revised quarterly.

(e) Menus shall be adjusted to include seasonal commodities.

(f) Menus shall be planned with consideration of cultural and religious background, and food habits of patients.

(g) A copy of the menu as served shall be kept on file for at least 30 days.

(h) Between–meal nourishments shall consists of but not be limited to a beverage and either fruits, vegetables or a grain product such as crackers, cookies or bread.

(i) Menus shall be available for review by each patient or the patient's designated representative.

(j) Itemized records of food purchases shall be kept for one year and available for review by the Department. Food purchases invoices are acceptable provided they list amounts and types of foods purchases.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.53. Dietetic Service—Food Storage.

(a) Food storage areas shall be clean at all times.

(b) All foods or food items not requiring refrigeration shall be stored at least 30 centimeters (12 inches) above the floor, on shelves, racks, dollies or other surfaces which facilitate thorough cleaning, in a ventilated room, not subject to sewage or wastewater backflow or contamination by condensation, leakage, rodents or vermin. All packaged food, canned foods, or food items stored shall be kept clean and dry at all times.

(c) All readily perishable foods or beverages capable of supporting rapid and progressive growth of microorganisms which can cause food infections or food intoxication shall be maintained at temperatures of 7°C (45°F) or below, or at 60°C (140°F) or above, at all times, except during necessary periods of preparation and service. Frozen foods shall be stored at minus 18°C (0°F) or below at all times. There shall be an accurate thermometer in each refrigerator and freezer and in storerooms used for perishable foods. All foods stored in walk–in refrigerators and freezers shall be stored above the floor on shelves, racks, dollies or other surfaces that facilitate thorough cleaning.

(d) Pesticides and other toxic substances and drugs shall not be stored in the kitchen area or in storerooms for food and/or food preparation equipment and utensils.

(e) Soaps, detergents, cleaning compounds or similar substances shall be stored in separate defined storage areas.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.55. Dietetic Service—Sanitation.

(a) All kitchens and kitchen areas shall be kept clean, free from litter and rubbish and protected from rodents, roaches, flies and other insects.

(b) All utensils, counters, shelves and equipment shall be kept clean, maintained in good repair and shall be free from breaks, corrosions, open seams, cracks and chipped areas.

(c) Plastic ware, china and glassware that are unsightly, cannot be sanitized or are hazardous because of chips, cracks or loss of glaze shall be discarded.

(d) Ice which is used in connection with food or drink shall be from a sanitary source and shall be handled and dispensed in a sanitary manner.

(e) Kitchen wastes hat are not disposed of by mechanical means shall be kept in clean, leakproof, nonabsorbent, tightly closed containers and shall be disposed of as frequently as necessary to prevent a nuisance or unsightliness.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Sec–

tion 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.57. Dietetic Service—Cleaning and Disinfection of Utensils.

(a) All utensils used for eating, drinking and in the preparation and serving of food and drink shall be cleaned and disinfected or discarded after each usage.

(b) Gross food particles shall be removed by careful scraping and prerinsing in running water.

(c) The utensils shall be thoroughly washed in hot water with a minimum temperature of 43°C (110°F), using soap or detergent, rinsed in hot water to remove soap or detergent and disinfected by one of the following methods or equivalent, as approved by the Department.

(1) Immersion for at least two minutes in clean water at 77°C (170°F).

(2) Immersion for at least 30 seconds in clean water at 83°C (180°F).

(3) Immersion in water containing bactericidal chemical as approved by the Department.

(d) After disinfection the utensils shall be allowed to drain and dry in racks or baskets on nonabsorbent surfaces. Drying cloths shall not be used.

(e) Results obtained with dishwashing machines shall be equal to those obtained by the methods outlined above and all dishwashing machines shall meet the requirements contained in Standard No. 3, for commercial spray–type dishwashing machines, as revised in June 1982, of the National Sanitation Foundation, P.O. Box 1468, Ann Arbor, MI 48106. Hot water at a minimum temperature of 83°C (180°F), shall be maintained at the manifold of the final rinse.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.59. Dietetic Service—Equipment and Supplies.

(a) Equipment of the type and in the amount necessary for the proper preparation, serving and storing of food and for proper dishwashing shall be provided and maintained in good working order.

(b) Fixed and mobile equipment in the dietetic service area shall be located to assure sanitary and safe operation and shall be of sufficient size to handle the needs of the facility.

(c) The dietetic service area shall be ventilated in a manner that will maintain comfortable working conditions, remove objectionable odors and fumes and prevent excessive condensation.

(d) Food supplies shall meet the following standards:

(1) At least one week's supply of staple foods and at least two days' supply of perishable foods shall be maintained on the premises. Food supplies shall meet the requirements of the weekly menu including the therapeutic diets ordered.

(2) All food shall be of good quality and procured from sources approved or considered satisfactory by federal, state or local authorities. Food in unlabeled, rusty, leaking, broken containers or cans with side seam dents, rim dents or swells shall not be retained or used. Home canned food shall not be used.

(3) Milk when served as a beverage, shall be pasteurized Grade A or certified unless otherwise prescribed by the physician's diet order. Milk, milk products and products resembling milk shall be processed or manufactured in milk product plants meeting the requirements of Division 15 of the California Food and Agricultural Code. Powdered milk shall not be used as a beverage but may be used in cooking.

(4) Milk shall be served in individual containers or from a dispensing device which has been approved for such use by the local health department or from the original container. When milk is served in individual containers the cap or seal shall not be removed except in the presence of the patient. Milk shall be dispensed directly into the glass or other container from which the patient drinks.

(5) Catered foods and beverages from a source outside the Institute shall be prepared, packed, properly identified, stored and transported in compliance with these regulations and other applicable federal, state and local codes.

(6) Foods held in refrigerated or other storage areas shall be covered. Liquids and food which are prepared and not served shall be tightly covered, stored appropriately, clearly labeled and dated. A written procedure shall be established and followed for the safe use of leftover foods.

(7) Spoiled or contaminated food shall not be served.

(8) Meat, poultry and meat products shall not be used unless they have met inspection standards of state or federal authorities.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.61. Dietetic Service–Staff.

(a) A dietitian shall be employed on a full–time, part–time or consulting basis. Part–time or consultant services shall be provided on the premises at appropriate times on a regularly scheduled basis. A written record of the frequency, nature and duration of the consultant's visits shall be maintained. Staff of the dietetic service are responsible for providing diet counseling to the Home Health Care Services Unit and Hospice Care Services Unit staff and/or patients as appropriate.

(b) If a dietitian is not employed full–time, a full–time person who is a graduate of a state approved course that provides 90 or more hours of classroom instruction in food supervision shall be employed to be responsible for the operation of the food service. The dietetic supervisor may also cook, provided sufficient time is allowed for managerial responsibilities.

(c) Sufficient staff shall be employed, oriented, trained and their working hours scheduled to provide for the nutritional needs of the patients and to maintain the dietetic service areas. If dietetic service employees are assigned duties in other services, those duties shall not interfere with the sanitation, safety or time required for dietetic work assignments.

(d) Current work schedules by job titles and weekly time schedules by job titles shall be posted.

(e) Dietetic service personnel shall be trained in basic food sanitation techniques, wear clean clothing, and a cap or a hair net, and shall be excluded from duty when affected by skin infection or communicable diseases. Beards and mustaches which are not closely cropped and neatly trimmed shall be covered.

(f) Employees' street clothing stored in the kitchen shall be in a closed area separate from food or items used in food service.

(g) Kitchen sinks shall not be used for handwashing. Separate handwashing facilities with soap, running water and individual towels shall be provided.

(h) Persons other than dietetic service personnel shall not be allowed in the kitchen areas unless required to do so in the performance of their duties.

(i) Smoking shall not be permitted in kitchen areas.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.63. Dietetic Service—In–Service Training.

In–service training shall be provided for all dietetic service personnel and a record of subject areas covered, data and duration of each session and attendance lists shall be maintained.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.65. Pharmaceutical Service–General.

(a) Arrangements shall be made to assure that pharmaceutical services are available to provide patients with prescribed drugs and biologicals.

(b) Dispensing, labeling, storage and administration of drugs and biologicals shall be in conformance with state and federal laws.

(c) If a pharmacy is located on the premises, the pharmacy shall be licensed by the California State Board of Pharmacy and approved by the Department. The pharmacy shall not serve the general public unless a separate public entrance or a separate public serving window is utilized. Pharmacies located on the licensed premises of Institutes shall be opened for inspection upon the request of an authorized Department representative.

(d) The Institute shall not accept money, goods or services free or below cost from any pharmacist or pharmacy as compensation or inducement for referral of business to any pharmacy.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.67. Pharmaceutical Service–Policies and Procedures.

There shall be written policies and procedures for safe and effective distribution, control, use and disposition of drugs developed by the Patient Care Policy Committee. The committee shall monitor implementation of the policies and procedures and make recommendations for improvement.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.69. Pharmaceutical Service–Requirements.

(a) Pharmaceutical service shall include, but is not limited to, the following:

(1) Obtaining necessary drugs including the availability of 24–hour prescription service on a prompt and timely basis as follows:

(A) Drugs ordered "Stat" that are not available i the Institute emergency drug supply shall be available and administered within one hour of the time ordered during normal pharmacy hours. For those hours during which the pharmacy is closed, drugs ordered "Stat" shall be available and administered within two hours of the time ordered. Drugs ordered "Stat" which are available in the emergency drug supply shall be administered immediately.

(B) Anti–infectives and drugs used to treat severe pain, nausea, agitation, diarrhea or other severe discomfort shall be available and administered within four hours of the time ordered.

(C) Except as indicated above, all new drug orders shall be available on the same day ordered unless the drug would not normally be started until the next day.

(D) Refill of prescription drugs shall be available when needed.

(2) preparation for administration and dispensing of drugs and biologicals.

(3) Monitoring the drug distribution system which includes ordering, dispensing and administering of medication.

(4) Provision of consultative and other services furnished by pharmacists which assist in the development, coordination, supervision and review of the pharmaceutical services within the Institute.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.71. Pharmaceutical Service–Labeling and Storage of Drugs.

(a) Containers which are cracked, soiled or without secure closures shall not be used. Drug labels shall be legible.

(b) All drugs obtained by prescription shall be labeled in compliance with state and federal laws governing prescription dispensing. No person other than the dispenser of the drug shall alter any prescription label.

(c) Nonlegend drugs shall be labeled in conformance with state and federal food and drug laws.

(d) Test reagents, germicides, disinfectants and other household substances shall be stored separately from drugs and shall not be accessible to patients.

(e) External use drugs in liquid, tablet, capsule or powder form shall be stored separately from drugs for internal use.

(f) Drugs shall be stored at appropriate temperatures. Drugs required to be stored at room temperature shall be stored at a temperature between 15°C (59°F) and 30°C (86°F). Drugs requiring refrigeration shall be stored in a refrigerator between 2°C (36°F) and 8°C (46°F). When drugs are stored in the same refrigerator with food, the drugs shall be kept in a closed container clearly labeled "drugs."

(g) Drugs shall be stored in an orderly manner in cabinets, drawers or carts of sufficient size to prevent crowding.

(h) Dose preparation and administration areas shall be well–lighted. If medication carts are used, a light shall be available on the cart.

(i) Drugs shall be accessible only to licensed nursing personnel designated in writing by the Institute.

(j) Storage of nonlegend drugs at the bedside shall meet the following conditions:

(1) The manner of storage shall prevent access by other patients. Lockable drawers or cabinets need not be used unless alternate procedures, including storage on a patient's person or in an unlocked drawer or cabinet are ineffective.

(2) The Institute shall record in the patient's Unit health record the bedside medications used by the patient, based on observation by nursing personnel and/or information supplied by the patient.

(3) The quantity of each drug supplied to the patient for bedside storage shall be recorded in the patient's Unit health record each time the drug is so supplied.

(k) Storage of legend drugs at the bedside shall meet the conditions of 97321.71(j) and shall in addition:

(1) Be specifically ordered by the prescriber of the drugs, and

(2) Be limited to sublingual or inhalation forms of emergency dugs.

(l) Drugs shall not be kept in stock after the expiration date on the label and no contaminated or deteriorated drugs shall be available for use.

(m) The drugs of each patient shall be kept and stored in their originally received containers. No drug shall be transferred between containers.

(n) Discontinued drug containers shall be marked, or otherwise identified, to indicate that the drug has been discontinued, or shall be stored in a separate location which shall be identified solely for this purpose. Discontinued drugs shall be disposed of within 90 days of the date the drug order was discontinued, unless the drug is reordered within that time.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Sec–

tion 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97321.73. Pharmaceutical Service—Standing Orders.

The Institute shall not use any standing order for medications or treatment.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97321.75. Pharmaceutical Service—Stop Orders.

Written policies shall be established and implemented limiting the duration of new drug orders in the absence of a prescriber's specific indication for duration of therapy. The prescriber shall be contacted for new orders prior to the termination time established by the policy. Such policies shall include all categories of drugs.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97321.77. Pharmaceutical Service—Orders for Drugs.

(a) No drugs shall be administered except upon the order of a person lawfully authorized to prescribe for and treat human illness.

(b) All drug orders shall be written, dated, and signed by the person lawfully authorized to give such an order. The name, quantity or specific duration of therapy, dosage and time or frequency of administration of the drug, the site of injection when indicated, and the route of administration if other than oral shall be specified. "P.R.N." orders shall also include the indication for use of a drug.

(c) Verbal orders for drugs and treatments shall be received only by licensed nurses, psychiatric technicians, pharmacists, physicians, physician's assistants from their supervising physicians only, and certified respiratory therapists when the orders relate specifically to respiratory care. Such orders shall be recorded immediately in the patient's Unit health record by the person receiving the order and shall include the date and time of the order. The order shall be signed by the prescriber within five days.

(d) The signing of orders shall be by signature or a personal computer key. Signature stamps shall not be used.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97321.79. Pharmaceutical Service—Drug Order Processing.

Signed orders for drugs shall be transmitted to the issuing pharmacy within 48 hours, either by written prescription of the prescriber or by an order form which produces a direct copy of the order or by an electronically reproduced facsimile.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97321.81. Pharmaceutical Service—Drug Order Records.

Institutes shall maintain a record which includes, for each drug ordered by prescription, the name of the patient, the drug name, and strength, the date ordered, the date and amount received and the name of the issuing pharmacy. The records shall be kept at least one year.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97321.83. Pharmaceutical Service—Personal Medications.

(a) Medications brought by or with the patient on admission to the Institute shall not be used unless the drugs have been ordered by the patient's physician and contents of the containers have been examined and positively identified after admission by the patient's physician or a pharmacist retained by the Institute.

(b) The Institute may use drugs transferred from licensed health facilities or those drugs dispensed or obtained after admission from any licensed or governmental pharmacy and may accept the delivery of those drugs by any agent of the patient or pharmacy without the necessity of identification by a physician or pharmacist.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97321.85. Pharmaceutical Service—Controlled Drugs.

(a) Drugs listed in Schedules II, III and IV of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970 shall not be accessible to other than licensed nursing, pharmacy and medical personnel designated by the Institute. The Director of Nursing Services shall be designated to be responsible for the control of such drugs. Drugs listed in Schedule II of the above Act shall be stored in a locked cabinet or a locked drawer separate from noncontrolled drugs unless they are supplied on a scheduled basis as part of a unit dose medication system.

(b) Separate records of use shall be maintained on all Schedule II drugs. Such records shall be maintained accurately and shall include the name of the patient, the prescriber, the prescription number, the drug name, strength and dose administered, the date and time of administration and the signature of the person administering the drug. Such records shall be reconciled at least daily and shall be retained at least one year. If such drugs are supplied on a scheduled basis as part of a unit dose medication system, such records need not be maintained separately from patient's medication records.

(c) Drug records shall be maintained for drugs listed in Schedules III and IV of the above Act in such a way that the receipt and disposition of each dose of any such drug may be readily traced. Such records need not be separate from other medication records.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97321.87. Pharmaceutical Service—Disposition of Drugs.

(a) Drugs which have been dispensed for individual patient use and are labeled in conformance with State and Federal law for outpatient use shall be furnished to patients on discharge on the orders of the discharging physician. Such drugs shall be dispensed in compliance with the California Pharmacy Laws and Regulations. If the physician's discharge orders do not include provisions for drug dispositions, drugs shall be furnished to patients unless:

(1) The discharging physician specifies otherwise or,

(2) The patient leaves or is discharged without a physician's order or approval or,

(3) The patient is discharged to a general acute care hospital, acute psychiatric hospital, or acute care rehabilitation hospital or,

(4) The drug was discontinued prior to discharge or,

(5) The labeled directions for use are not substantially the same as most current orders for the drug in the patient's Unit health record.

(b) A record of the drugs sent with the patient shall be made in the patient's Unit health record.

(c) Patient's drugs supplied by prescription which have been discontinued and those which remain in the Institute after discharge of the patient shall be destroyed by the Institute in the following manner:

(1) Drugs listed in Schedules II, III or IV of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970 shall be destroyed by the Institute in the presence of a pharmacist and a registered nurse employed by the Institute. The name of the patient, the name and strength of the drug, the prescription number, the amount destroyed, the date of destruction and the signatures of the witnesses required above shall be recorded in the patient's Unit health record or in a separate log. Such log shall be retained for at least three years.

(2) Drugs not listed under Schedules II, III or IV of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970 shall be destroyed by the Institute in the presence of a pharmacist or licensed nurse. The name of the patient, the name and strength of the drug, the prescription number if applicable, the amount destroyed, the date of destruction and the signatures of the pharmacist or licensed nurse and one other person shall be recorded in the patient's Unit health record or in a separate log. Such log shall be retained for at least three years.

(d) Unless otherwise prohibited under applicable federal or state laws, individual patient drugs supplied in sealed containers may be returned, if unopened, to the issuing pharmacy for disposition provided that:

(1) No drugs covered under the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970 are returned.

(2) All such drugs are identified as to lot or control number.

(3) The signatures of the receiving pharmacist and a registered nurse employed by the Institute are recorded in a separate log which lists the name of the patient, the name, strength, prescription number (if applicable), the amount of the drug returned and the date of return. The log must be retained for at least three years.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.89. Pharmaceutical Service—Unit Dose Medication System.

In Institutes utilizing a unit dose medication system, there shall be at least a 24–hour supply of all patient medications on hand at all times, except those drugs which are to be discontinued within the 24–hour period. Drugs that are part of a unit dose medication system shall not exceed a 48–hour supply.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.91. Pharmaceutical Service—Staff.

(a) The Institute shall retain a consulting pharmacist who devotes a sufficient number of hours during a regularly scheduled visit, for the purpose of providing consultation on methods and procedures for ordering, storage, administration and disposal and record keeping of drugs and biologicals and coordinating, supervising and preparing a report to the Pharmaceutical Service Committee, or its equivalent, at least quarterly. The report shall include a log or record of time spent in the Institute. There shall be a written agreement between the pharmacist and the Institute which includes duties and responsibilities of both.

(b) A pharmacist shall serve on the Pharmaceutical Service Committee and the Patient Care Policy Committee.

(c) A pharmacist shall review the drug regimen of each patient at least monthly. The review of the drug regimen of each patient shall include all drugs currently ordered, information concerning the patient's condition relating to drug therapy, medication administration records and where appropriate, physician's progress notes, nurse's notes, and laboratory test results. The pharmacist shall be responsible for reporting, in writing, irregularities in the dispensing and administration of drugs and other matters relating to the review of the drug regimen to the Institute administrator and the Director of Nursing Services.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.93. Pharmaceutical Service—Equipment and Supplies.

(a) There shall be adequate equipment and supplies necessary for the provision of pharmaceutical services within the Institute including at least the following:

(1) Refrigerator with an accurate thermometer.

(2) Lockable drug cabinets, drawers, closets or rooms.

(3) Drug service trays and/or carts.

(4) Drug preparation counter area and convenient water source.

(5) Syringes, needles, rubber tubing, clamps, droppers, medicine glasses, cups or other small containers which are accurately calibrated.

(6) Reference materials containing drug monographs on all drugs in use in the Institute. Such monographs shall include information concerning generic and brand names, if applicable, available strengths and dosage forms and pharmacological data including indications and side effects.

(b) Emergency supplies as approved by the Patient Care Policy Committee or Pharmaceutical Service Committee shall be readily available to each nursing station. Emergency drug supplies shall meet the following requirements:

(1) Legend drugs shall not be stored in the emergency supply, except under the following conditions:

(A) Injectable supplies of legend drugs shall be limited to a maximum of three single doses in ampules or vials or one container of the smallest available multi–dose vial and shall be in sealed, unused containers.

(B) Sublingual or inhalation emergency drugs shall be limited to single sealed containers of the smallest available size.

(C) No more than six emergency drugs in solid, oral dosage form or suppository dosage form for anti–infective, antidiarrheal, antinausea, or analgesic use may be stored if in sealed containers. Not more than four doses of any one drug may be so stored.

(2) The emergency drug supply shall be stored in a portable container which is sealed in such a manner that the tamper–proof seal must be broken to gain access to the drugs. The supply shall be opened only in the presence of a physician, pharmacist or licensed nurse. The Director of Nursing Services or charge nurse shall notify the pharmacist when drugs have been used from the emergency kit or when the seal has been broken. Drugs used from the kit shall be replaced within 72 hours and the supply resealed by the pharmacist.

(3) The contents of the supply shall be listed on the outside of the container.

(4) The supply shall be checked at least monthly by the pharmacist.

(5) Separate records of use shall be maintained for drugs administered from the supply. Such records shall include the name and dose of the drug

administered, name of the patient, the date and time of administration and the signature of the person administering the dose.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.95. Activity Program—Requirements.

(a) The activity program and all additional programs in Section 97321.105 shall be under the management of the Institute administrator and shall be available to provide services to patients in Services Units which do not have an individual program within the Unit, as indicated by the needs of the patients.

(b) Patients shall be encouraged to participate in activities planned to meet their individual needs. An activity program shall have a written, planned schedule of social and other purposeful independent or group activities. The program shall be designed to make life more meaningful, to stimulate and support physical and mental capabilities to the fullest extent, to enable the patient to maintain the highest attainable social, physical and emotional functioning but not necessarily to correct or remedy a disability.

(c) The activity program shall consist of individual, small and large group activities which are designed to meet the needs and interests of each patient and which include, but are not limited to:

(1) Social activities which involve group participation and are designed to promote group relationships.

(2) Indoor and out–of–doors activities, which may include supervised daily walks.

(3) Recreational activities, both indoor and outdoor.

(4) Activities away from the Institute.

(5) Religious programs including the right of each patient to attend the church or religious program of his or her choice.

(6) Opportunity for patient involvement for planning and implementation of the activity program.

(7) Creative and expressive activities.

(8) Educational activities.

(9) Exercise activities.

(d) Activities shall be available on a daily basis.

(e) The activity leader, at a minimum, shall:

(1) Develop, implement and supervise the activity program.

(2) Plan and conduct in–service training of the staff of the Institute at least annually.

(3) Coordinate the activity schedule with other patient services.

(4) Maintain a current list of patients from the nursing service who are not physically able to participate in activities.

(5) Post the activity schedule conspicuously, in large visible print, for the information of patients and staff.

(6) Request and maintain equipment and supplies.

(7) Develop and maintain contacts with community agencies and organizations.

(8) Develop and implement activities for patients unable to leave their rooms.

(9) Maintain progress notes specific to the patient's activity plan which are recorded at least quarterly, and more frequently if needed, in the patient's Unit health record.

(10) Maintain a current record of the type and frequency of activities provided and the names of patients participating in each activity.

(11) Provide the administrator with a current schedule of planned activities.

(d) Where appropriate, the activity leader may recruit, train and supervise a volunteer program to assist with and augment the services of the activity program.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.97. Activity Program—Activity Plan.

(a) An activity plan shall:

(1) Be developed and implemented for each patient and shall be integrated with the individual treatment and management plan and patient's care plan.

(2) Be reviewed quarterly and approved, in writing, by the attending physician as not in conflict with the treatment and management plan.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.98. Activity Program—Staff.

(a) Activity program personnel with appropriate training and experience shall be available to meet the needs and interests of patients.

(b) An activity program leader shall be designated by and be responsible to the Institute administrator. An activity program leader shall meet one of the following requirements:

(1) Have two years of experience in a social or recreational program within the past five years, one year of which was full–time in a patient activities program in a health care setting.

(2) Be an occupational therapist, art therapist, music therapist, dance therapist, recreation therapist or occupational therapy assistant.

(3) Have satisfactorily completed at least 36 hours of training in a course designed specifically for this position and approved by the Department and shall receive regular consultation from an occupational therapist, occupational therapy assistant or recreation therapist who has at least one year of experience in a health care setting.

(c) As a minimum, the Institute shall provide an activity leader as follows:

(1) Any Institute with 50 or more skilled nursing or intermediate care beds shall have a full–time employee whose sole responsibility shall be the development, implementation and supervision of the social, recreational and rehabilitative programs at the Institute.

(2) Any Institute with 25 or more, but less than 50 skilled nursing or intermediate care beds shall have an employee who shall devote a minimum of 20 hours per week to the development, implementation and supervision of the social, recreational and rehabilitative programs of the Institute.

(3) Any Institute with less than 25 skilled nursing or intermediate care beds shall have an employee or consultant who shall devote a minimum of 10 hours per week to the development, implementation and supervision of the social, recreational and rehabilitative programs of the Institute.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.99. Activity Program—Equipment and Supplies.

Each Institute shall provide equipment and supplies for both independent and group activities and for patients having special needs.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.101. Activity Program—Space.

(a) Each Institute shall provide designated activity areas both indoor and outdoor, which meet the independent and group activity needs of patients. Such areas shall be:

(1) Accessible to wheelchair and ambulatory patients.

(2) Of sufficient size to accommodate necessary equipment and permit unobstructed movement of wheelchair and ambulatory patients or personnel responsible for instruction and supervision.

(b) Storage space for equipment and supplies shall be provided and shall be maintained in a clean and orderly manner.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.103. Activity Program—Policies and Procedures.

Written policies and procedures governing the conduct of the activity program shall be available for use by the activity leader and other personnel assisting in the program. The policies and procedures shall be developed by the Patient Care Policy Committee with the assistance of the activity leader.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.105. Additional Programs—General.

(a) Additional program means a functional program of an Institute which is organized, staffed and equipped to provide a specific type or types of patient care.

(b) The following types of additional programs shall be operated in an Institute: physical therapy, occupational therapy, speech therapy, speech pathology, audiology, and social work services.

(c) If additional programs offer services to outpatients, the following conditions shall be met:

(1) Program areas shall be located or constructed in a manner that will minimize noise, odors, hazards and unsightliness to the Institute's inpatients.

(2) Outpatient access to program areas shall not traverse a nursing unit.

(3) Separate toilets for men and women outpatients shall be provided.

(4) Drinking water facilities of a type approved by the Department shall be available for outpatients and personnel.

(5) Handwashing facilities with hot and cold water supply shall be provided in the program areas accommodating outpatients.

(6) Waiting areas shall be provided with sufficient floor space to seat the maximum number of patients who are expected to be accommodated at any one time.

(d) Each additional program within the Institute shall be approved by the Office.

(e) The Office shall list on the Designation Certificate each additional program for which approval is granted.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.107. Physical Therapy Program—Services.

(a) Physical therapy program means those services ordered by a physician for a patient or upon a physician's referral and provided to a patient by or under the supervision of a physical therapist to achieve and maintain the highest level of functional ability.

(b) Physical therapy services shall include but are not limited to:

(1) Assisting the physician in an evaluation of the patient's rehabilitation potential.

(2) Applying muscle, nerve, joint and functional ability tests.

(3) Treating patients to relieve pain and to develop or restore function.

(4) Assisting patients to achieve and maintain maximum performance using physical means such as exercise, massage, heat, sound, water, light or electricity.

(5) Establishing and modifying a treatment program by the physical therapist, as needed, based upon initial and continuing assessment of the patient.

(6) Maintaining patient health records which contain pertinent information and signed orders for treatment.

(A) Notes shall be written and entered in the patient's Unit health record after completion of each procedure. The note shall indicate the procedure(s) and shall be signed by the physical therapist.

(B) Initial and continuing assessment, development of a care plan shall be written and entered in each patient's Unit health record.

(C) Individual progress notes shall be written and signed at least weekly by the physical therapist.

(D) When hydrotherapy is offered, there shall be written cleaning and culturing techniques posted near the equipment.

(E) Personnel policies shall define the responsibilities of the physical therapy director and the duties assigned to the auxiliary personnel.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.109. Physical Therapy Program—Policies and Procedures.

(a) Each physical therapy program shall have written policies and procedures for the management of the physical therapy program.

(b) The policies and procedures shall be established and implemented by the Patient Care Policy Committee in consultation with a physical therapist.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.111. Physical Therapy Program—Staff.

(a) The physical therapy program shall be under the direction of a physical therapist.

(b) A physical therapist assistant shall treat patients only under the supervision of a physical therapist in accordance with Article 4.5 (beginning with Section 2655) of the Physical Therapy Act, Chapter 5.7 of Division 2 of the Business and Professions Code.

(c) A physical therapy aide shall work only under the direct supervision of a physical therapist.

(d) There shall be a physical therapist, physical therapist assistants and physical therapy aides to meet the identified needs of the patients and staff shall work the hours necessary to accomplish those tasks listed in Section 97321.107.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.113. Physical Therapy Program—Equipment.

(a) Equipment shall be sufficient to provide the physical therapy services offered. The equipment shall include but not be limited to:

(1) Parallel bars.

(2) Full view mirror.

(3) Overhead pulley and weights.

(4) Set of training stairs.

(5) Treatment table enclosed by cubicle curtains for privacy.

(6) Availability of wheelchairs, walkers, canes, crutches and other ambulation aids.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.115. Physical Therapy Program—Space.

(a) Adequate space shall be maintained for the necessary equipment needed to provide physical therapy services. The minimum floor area for physical therapy service shall be 28 square meters (300 square feet), no dimension of which shall be less than 3.7 meters (12 feet).

(b) A sink shall be provided in the treatment area and shall have controls other than hand controls.

(c) The toilet facilities shall be located nearby and equipped with grab bars on both side of the commode and the space shall be of sufficient size to allow for patient transfer activities.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.117. Occupational Therapy Program—Services.

(a) Occupational therapy program means those medically prescribed services in which selected purposeful activity is used as treatment in the rehabilitation of persons with a physical or mental disability.

(b) Occupational therapy services shall include but not be limited to:

(1) Assisting the physician in an evaluation of a patient's level of function by applying diagnostic and prognostic tests.

(2) Conducting and preparing written initial and continuing assessment of the patient's condition and modifying treatment goals under the order of a physician, consistent with the identified needs of the patient.

(3) Decreasing or eliminating disability during patient's initial phase of recovery following injury or illness.

(4) Increasing or maintaining a patient's capability for independence.

(5) Enhancing a patient's physical, emotional and social well–being.

(6) Developing function to a maximum level.

(7) Guiding patients in their use of therapeutic, creative and self–care activities for improving function.

(c) An occupational therapy service unit shall meet the following requirements:

(1) Patient's care plan shall contain pertinent information and signed orders for treatment.

(2) Notes shall be written and entered in the patient's Unit health record after completion of each procedure. The notes shall indicate the procedure(s) performed, the reaction of the patient to the procedure(s) and shall be signed by the occupational therapist.

(3) Initial and continuing assessment, consultation in the development of a treatment and development plan shall be written and entered in each patient's care plan.

(4) Individual progress notes shall be written and signed on each visit or at least weekly by the occupational therapist.

(5) Personnel policies shall define the occupational therapy director's responsibilities and the duties assigned to the occupational assistant. Staff shall work the hours necessary to accomplish the tasks listed in Section 97321.117.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.119. Occupational Therapy Program—Policies and Procedures.

(a) Each occupational therapy program shall have written policies and procedures for the management of the occupational therapy program.

(b) The policies and procedures shall be established and implemented by the Patient Care Policy Committee in consultation with an occupational therapist.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.121. Occupational Therapy Program—Staff.

(a) The occupational therapy program shall be under the direction of an occupational therapist.

(b) An occupational therapy assistant shall work only under the supervision of an occupational therapist.

(c) There shall be occupational therapists and occupational therapy assistants in the number necessary to meet the identified needs of the patients.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.123. Occupational Therapy Program—Equipment.

(a) Necessary equipment shall be available to provide the occupational therapy services offered. The equipment shall include but not be limited to:

(1) Supportive slings, supportive and assistive hand splints and the materials from which to fabricate these and other assistive devices.

(2) Adaptive devices to aid in the performance of daily living skills such as eating, dressing, grooming and writing, with instructions for their use.

(3) Equipment and supplies for the development of creative skills shall include, but not limited to, leatherwork, weaving, needlework, ceramics, woodworking, painting, and graphic arts.

(4) Means and supplies for adapting equipment for reeducation in activities of daily living.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.125. Occupational Therapy Program—Space.

(a) Space shall be provided for the necessary equipment needed to provide occupational therapy. The minimum floor area shall be 28 square meters (300 square feet), no dimension of which shall be less than 3.7 meters (12 feet).

(b) A sink shall be provided in the treatment area and shall have controls not requiring the use of hands.

(c) The toilet facilities shall be located nearby and equipped with grab bars on both sides of the commode, and the space shall be of sufficient size to allow for patient transfer activities.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Sec-

tion 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.127. Speech Pathology and/or Audiology Program—Services.

(a) Speech pathology and/or audiology services means those services referred or ordered by a physician which provide diagnostic screening and preventive and corrective therapy for patients with speech, hearing and/or language disorders.

(b) Speech pathology and/or audiology service shall include but not be limited to the following:

(1) Conducting and preparing written initial and continuing assessment of a patient.

(2) Notes written and entered in the patient's Unit health record after each treatment. The notes shall indicate the treatment performed, the reaction of the patient to the treatment, and be signed by the speech pathologist or audiologist.

(3) Instruction of other health team personnel and family members in methods of assisting the patient to improve or correct a speech or hearing disorder.

(4) Determination and recommendation of the appropriate speech, language and hearing therapy.

(c) A speech pathology and/or audiology program shall meet the following requirements:

(1) The patient's care plan shall contain a patient's history and signed orders for treatment.

(2) Progress notes shall be written at least weekly and entered in the patient's Unit health record and shall be signed by the speech pathologist and/or audiologist.

(3) Personnel policies shall define the duties of the speech pathology and audiology director and allied personnel in the speech and audiology program. Staff shall work the hours necessary to accomplish the tasks in this program.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.129. Speech Pathology and/or Audiology Program—Policies and Procedures.

(a) Each speech pathology and/or audiology program shall have written policies, procedures and job descriptions for the management of the speech pathology and/or audiology service.

(b) The policies, procedures and job descriptions shall be established by the Patient Care Policy Committee in consultation with a speech pathologist and/or audiologist.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.131. Speech Pathology and/or Audiology Program—Staff.

(a) Each speech pathology program shall employ a speech pathologist and/or audiologist for a sufficient number of hours to meet the needs of the patients.

(b) There may be at least one speech pathology and/or audiology aide to assist in the testing and implementation of the service. The aides shall be registered as speech pathology and/or audiology aides with the Board of Medical Examiners and shall work only under the supervision of a speech pathologist and/or audiologist.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.133. Speech Pathology and/or Audiology Program—Equipment.

(a) Necessary equipment shall be available to provide the speech pathology and/or audiology services offered. The equipment shall include but not be limited to:

(1) A diagnostic clinical audiometer.

(2) Diagnostic tests and materials.

(3) Other equipment and materials deemed necessary by the speech pathologist and/or audiologist to meet the needs of patients.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.135. Speech Pathology and/or Audiology Program—Space.

Space free of ambient noise shall be provided by the institute to produce valid test results.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.137. Social Work Program—Services.

(a) Social work services means those services which assist staff, a patient and a patient's family to understand and cope with a patient's personal, emotional and related health and environmental problems.

(b) The social work program shall include but not be limited to the following:

(1) Interview and written assessment of each patient within five days after admission to the program.

(2) Weekly progress reports in the patient's Unit health record written and signed by the social worker, social work assistant or social work aide.

(3) Social work program staff will participate in regular staff conferences with the attending physicians, the Director of Nursing Service and other appropriate personnel.

(4) Social work program staff will participate in the orientation and in–service education of other Institute staff assist in the recognition and understanding of the emotional problems and social needs of patients and families and to learn how to implement appropriate action to meet such identified needs.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.139. Social Work Program—Policies and Procedures.

(a) Each social work program shall have written policies, procedures and job descriptions for the management of the social work program.

(b) The policies, procedures and job descriptions shall be established by the Patient Care Policy Committee in consultation with a social worker.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Sec-

tion 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.141. Social Work Program—Staff.

(a) Each social work program shall employ a staff for the number of hours necessary to meet the needs of the patients.

(b) The social work program shall be organized, directed and supervised by a social worker, who is responsible for supervision of other social work staff, including social work assistants and social work aides.

(c) Social work program staff may include the social work assistant or the social work aide. Assigned functions and tasks shall be supervised by the social worker. Under conditions specified in the written patient care policies, procedures and job descriptions, the social work aide may be under the supervision of the social work assistant.

(d) Adequate clerical support services shall be provided for social work staff, including those employed on a contractual basis.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.143. Social Work Service Program—Equipment and Supplies.

(a) Office equipment and supplies necessary for the social work program shall be available.

(b) Equipment and supplies shall include but not be limited to:

(1) Literature and references on subjects including psychosocial problems and needs of the patient population in the Institute.

(2) Directories, listings and other reference materials on available community resources.

(3) Necessary clerical equipment and supplies.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.145. Social Work Program—Space.

Adequate office and other accessible space shall be provided for privacy in interviewing, telephoning, conferences and for operation of the program.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.147. Psychiatric or Psychological Services Program.

(a) The Institute shall have consultant staff available at a minimum of three hours per month and consisting of a psychiatrist, clinical psychologist, psychiatric social worker or psychiatric nurse. For proposes of this Section, a psychiatric nurse shall meet either of the following requirements:

(1) Be a registered nurse with a graduate degree in psychiatric nursing and one year of psychiatric nursing experience within the past five years.

(2) Be a registered nurse with a baccalaureate degree in nursing and three years of psychiatric nursing experience in a acute psychiatric setting or in a psychiatric health facility, one year of which shall have been within the past five years.

(b) The consultant shall provide at least the following:

(1) Maintenance of signed progress reports in the patient's Unit health record when indicated.

(2) Liaison with other members of the unit staff and family members and referral agencies that may yield information for psychiatric and psychological treatment.

(3) Group counseling and techniques, as indicated by the patient's needs.

(c) Sufficient space shall be provided for privacy for individual or small group counseling or large group activities as indicated by the patient's needs.

(d) Consultant staff shall spend a sufficient number of hours in the Unit to meet the needs of each patient and the staffing requirements of the Department.

(e) The Department may require that the Institute employ additional staff and/or consultants in this program if it determines on the basis of a written evaluation that such additional staff and/or consultants are needed to meet the needs of the patients.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97321.149. Transportation Services Program.

(a) An Institute which provides direct transportation services for patients shall meet specific operational standards. The motor vehicle shall:

(1) Be operated only by drivers who have a current license from the California State Department of Motor Vehicles and who meet the provisions of Section 12804 of the California Vehicle Code.

(2) Be equipped with safety devices to protect patients during transportation.

(3) Be equipped to accommodate patients with physical disabilities and patient's special equipment.

(4) Be maintained in a safe and reliable condition.

(b) The Institute shall develop policies regarding transportation safety and maintenance of vehicles.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 3. Staff

§ 97322.1. Administrator.

(a) Each Institute shall employ or otherwise provide a qualified full–time administrator to carry out the policies of the designee.

(b) The administrator shall have sufficient freedom from other responsibilities and shall be on the premises of the Institute a sufficient number of hours to permit adequate attention to the management and administration of the Institute. The Department may require that the administrator spend additional hours in the Institute whenever the Department determines through a written evaluation that such additional hours are needed to provide adequate administrative management.

(c) The designee shall employ an adequate number of qualified personnel to carry out all the functions of the Institute and shall provide for initial orientation of all new employees and a continuing in–service training program and competent supervision of all employees.

(d) If language or communication barriers exist between Institute and/or program staff and patients, arrangements shall be made for interpreters, bilingual staff or for the use of other mechanisms to ensure adequate communication between patients and personnel.

(e) The designee shall ensure that all employees serving patients or the public shall wear name and title badges unless contraindicated.

(f) A copy of the current Institute regulations contained in this Chapter shall be maintained by the administrator and shall be available to all personnel.

(g) The administrator shall be responsible for informing appropriate staff of the applicable additions, deletions and changes to the regulations.

(h) The administrator shall be responsible for informing the Department via telephone within 24 hours of any unusual occurrences as specified in Section 97323.15. If the unusual occurrence involves the discontinuance or disruption of services occurring during other than regular business hours of the Department or its designee, a telephone report shall be made immediately upon the resumption of business hours of the Department.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97322.3. Institute Staff.

An Institute must have at least the following principal staff:

(a) Medical Director. A physician who shall be responsible for the overall medical care program, the assignment of each patient to a case manager, and approval of all admissions and discharges, and who may also be considered the admitting physician.

(b) Administrator. An individual who shall be responsible for administrative management.

(c) Research Coordinator. A professional level staff person who shall be responsible for the identification, collection, maintenance, and availability of information relative to Alzheimer's disease or related dementias for the use of staff, the public, and researchers, so as to facilitate opportunities for basic and clinical research to implement the purposes of Health and Safety Code Section 1310.3.

(d) Education Director. An individual who shall be responsible for the coordination of educational development for Institute staff, health science students and patients' families, and/or other caregivers.

(e) Program Administrator. An individual who shall be responsible for the operation of a type of services and patients assigned to receive that type of services. A person may be a program administrator for more than one type of services if approved by the Department.

(f) Director of Nursing Services. An individual who shall have overall responsibility for the supervision of nursing services in the Institute.

(1) The Director of Nursing Services shall be a registered nurse and shall be employed full time in the Institute, eight hours a day, on the day shift five days a week.

(2) The Director of Nursing Services shall have at least one year of experience in nursing supervision within the last five years.

(3) The Director of Nursing Services shall have, in writing, administrative authority, responsibility and accountability for the nursing services within the Institute.

(4) The Director of Nursing Services shall not have charge nurse responsibilities.

(g) Case Managers. Individuals who shall serve as advocates for assigned patients and their families and/or caregivers to help assure that a continuum of care is provided and that the patients and their families and/or caregivers receive appropriate services.

NOTE: Authority cited: Sections 1311.5 and 1311.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97322.5. Case Management.

Each patient shall have a case manager assigned by written order of the Medical Director. The case manager shall provide continuous oversight and monitoring of the status of the assigned patient and his or her family and/or caregiver and serve as an advocate to help assure that a continuum of care is provided in accordance with the treatment and management plan. Each case manager shall be assigned only that number of patients for whom the case manager can provide adequate oversight and monitoring. The Department may require that more case managers be employed if the Department determines on the basis of a written evaluation that more case managers are needed.

NOTE: Authority cited: Sections 1312 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97322.7. Staff Development.

(a) Each Institute shall have an ongoing educational and training program planned and conducted for the development and improvement of necessary skills and knowledge of all Institute personnel. Each program shall include but not be limited to:

(1) Problems and needs of aged, chronically ill, acutely ill and disabled patients, especially those with Alzheimer's disease and related dementias.

(2) Prevention and control of infections.

(3) Interpersonal relationships and communication skills.

(4) Fire prevention and safety.

(5) Accident prevention and safety measures.

(6) Confidentiality of patient information.

(7) Preservation of patient's dignity, including provisions for privacy.

(8) Patient's rights and patient's civil rights.

(9) Signs and symptoms of cardiopulmonary distress.

(10) Choking prevention and intervention.

(b) In addition to (a) above, all licensed nurses shall have training in cardiopulmonary resuscitation.

(c) Records of each staff development program shall be maintained. The records shall include name and title of presenter, date of presentation, title of subject presented, description of content and the signatures of those attending.

(d) Each Institute shall have a written orientation program for all newly hired employees. Each employee shall receive orientation to the Institute, the employee's job description and duties, the patient population, the pertinent policies and procedures and the Institute staff.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97322.9. Nurse Assistant Training and Certification.

(a) Orientation and in–service education shall take place in the Skilled Nursing Services Unit or Intermediate Care Services Unit, or both, of the Institute. Each Institute shall have a written plan of the orientation and in–service education program approved by the Department which shall include objectives, course content and methods of teaching and evaluation of student learning.

(b) Each Institute shall:

(1) Designate a licensed nurse as director of nurse training whose only responsibility, during the hours specified, shall be management of the approved nurse assistant training program. Other Institute staff may participate when appropriate.

(2) Submit to the Department for approval the name and a statement listing the professional qualifications of the director of nurse training and keep this information on file in the Institute.

(3) Submit to the Department for approval the name and a statement listing the professional qualifications of the new director of nurse training no later than 30 calendar days after replacement of the director.

(c) The director of nurse training shall have at least the following qualifications:

(1) One year of full–time experience as a licensed nurse in providing direct nursing care to aged persons or chronically ill persons.

(2) One year of experience in planning, implementing and evaluating education programs in the field of nursing. If the director of nurse training does not possess this qualification requirement, one of the following shall apply:

(A) Within 6 months of employment, the director shall receive a minimum of 10 hours of individualized, ongoing consultation in the Skilled Nursing Services Unit or Intermediate Care Services Unit of the Institute from a registered nurse who does possess this qualification requirement. A written agreement shall be made between the Institute and the registered nurse providing consultation and shall be kept on file in the Institute. A record shall also be kept of the dates of consultation visits with content and recommendations noted.

(B) Within 6 months of employment, the director shall obtain a minimum of 24 hours of continuing education in nursing education courses approved by the Board of Registered Nursing which are relevant to planning, implementing and evaluating educational programs in the field of nursing. A record of class content and dates attending shall be kept on file in the Institute.

(d) In Institutes in which only orientation and in–service education are provided, the director of nurse training shall be employed as follows:

(1) Institutes designated for 100 or more skilled nursing or intermediate care beds shall employ the director of nurse training in this capacity for at least 93 hours per month.

(2) Institutes designated for 60–99 skilled nursing or intermediate care beds shall employ the director of nurse training in this capacity for at least 54 hours per month.

(3) Institutes designated for 59 or fewer skilled nursing or intermediate care beds shall employ the director of nurse training in this capacity for at least 26 hours per month.

(e) In Institutes in which orientation, in–service education and a precertification training program are provided, the director of nurse training shall be employed as follows:

(1) In Institutes designated for 100 or more skilled nursing or intermediate care beds, the director of nurse training shall be employed in this capacity 40 hours a week for the total time required to provide the three components of the training program.

(2) In Institutes designated for 60–99 skilled nursing or intermediate care beds, the director of nurse training shall be employed in this capacity for at least 30 hours a week for the total time required to provide the three components of the training program.

(3) In Institutes designated for 59 or fewer skilled nursing or intermediate care beds, the director of nurse training shall be employed in this capacity for at least 20 hours a week for the total time required to provide the three components of the training program.

(f) Institutes electing to contract for the precertification training program shall employ a director of nurse training as stated in Section 97322.9(e).

(g) Orientation Program—Each nurse assistant shall receive 16 documented hours of orientation which shall be completed during the first 40 hours of employment. This orientation shall be conducted as follows:

(1) Prior to providing direct patient care and during the first eight hours of employment each nurse assistant shall be given:

(A) A tour of the Skilled Nursing Services Unit or Intermediate Care Services Unit of the Institute, including:

1. Description of patient population.

2. Daily routine for patients.

3. Use of equipment including nurse's call system and intercommunication system.

(B) Instruction in procedures to be followed in an emergency:

1. Unusual occurrences with patients including but not limited to, emergency procedures for the relief of choking.

2. Fire.

3. Disaster.

(C) Introduction to patient care with clinical practice supervised by the director of nurse training or another designated licensed nurse.

(2) The remaining hours of the orientation program shall include, but not be limited to:

(A) Administrative structure.

(1) Organization of staff.

(2) Services offered.

(3) The role of nurse assistants, including job description, team concept, and attitudes and approaches to patients.

(4) Personnel policies, including appearance and grooming.

(B) The philosophy of patient care in the Skilled Nursing Services Unit or Intermediate Care Services Unit of the Institute.

(C) Patient's rights.

(D) Legal and ethical considerations of health care.

(E) Nursing policies and procedures.

(F) Patient comfort and environment.

(G) The role of federal and state regulations in the provision of care by employees.

(h) In–Service Education Program—Each Institute shall provide in–service education programs which shall be attended by nurse assistants assigned to all shifts. Each nurse assistant shall attend a minimum of 24 documented hours of in–service education annually. The following shall be included in the annual planning for an in–service education program:

(1) Content which builds on basic skills and theory acquired in the nurse assistant certification program and which shall include but not be limited to the following.

(A) Working with patients who have special problems such as blindness, deafness, confusion or communication disabilities.

(B) Bladder and bowel training and management.

(C) Signs, symptoms and probable causes of patient distress with procedures to be followed for alleviating distress, and emergency procedures for the relief of choking.

(D) Psychosocial aspects of aging and/or chronic illness as relevant to the individual, family and community with special emphasis on patients with Alzheimer's disease or related dementias.

(E) Patient care elements including planning and organizing work while individualizing patient care; testing urine for sugar and acetone; measuring blood pressure; and administering nonmedicated enemas.

(F) Nursing care relevant to body systems including, but not limited to fractures, diabetes, cardiac disorders, brain syndrome, cerebrovascular accidents, arthritis, pulmonary disorders.

(G) Nutritional needs of patients and related nursing interventions.

(H) Oral hygiene.

(I) Patient care conferences and patient care plans involving the patient and the patient's family, when appropriate.

(J) Improving skills in observation, reporting, recording and maintaining confidentiality of patient information.

(K) Developing effective relationships and means of intervention on behalf of the patients.

(L) Activities program.

(M) Working with the dying patient and the patient's family.

(N) Environmental safety including fire and accident prevention.

(O) Infection control.

(P) Patient's rights and civil rights.

(Q) Disaster preparedness.

(R) Sensory deprivation and stimulation.

(S) Maintenance of healthy skin: prevention of skin breakdown, body positioning and range of motion.

(T) Use of adaptive equipment relevant to nutrition and physical dysfunction.

(2) Assessment of staff needs, program planning, implementation of plan and evaluation of staff learning.

(i) Precertification Training Program.

(1) A precertification training program shall be conducted by the Institute, agency or a public educational institution whose precertification training program meets the requirements of Section 97322.9(i) and is approved by the Department. For purposes of this section, agency means a private school, organization or individual who provides an approved preemployment training program or an approved precertification training program for nurse assistants.

(2) Approval of a precertification training program shall be based upon that program's ability to prepare nurse assistants for certification.

(3) Each precertification training program shall be managed by the director of nurse training in an Institute.

(4) Credit for completed portions of an approved precertification training program shall be transferable from one approved precertification training program to another upon submission of written proof of completed portions.

(5) After successful completion of an entire precertification training program, a nurse assistant shall receive a statement of completion from the course instructor to include at least the name of the approved program, program title, the date the course was completed, the student, the student's name and signature of the instructor.

(6) Registered nurses, dietitians, occupational therapists, physical therapists, physicians, social workers and other health professionals may be involved in appropriate aspects of the training program.

(7) A licensed nurse shall be responsible for all segments of the precertification training program.

(8) A licensed nurse may assist as clinical instructor to supervise students in clinical practice.

(9) Application shall be made by the Institute, agency or public educational institution to the Department for approval of the precertification training program. The application shall contain the following:

(A) Name, address and telephone number of the Institute, agency or educational institution offering the program.

(B) Name and signature of the Institute administrator or the program administrator.

(C) Name of Director of Nursing Services if applicable.

(D) Name and professional qualifications of the director of nurse training or licensed nurse responsible for the precertification training program.

(E) Written plan of the precertification training program which shall include objectives, course content and hours, and methods of teaching and evaluation of student learning.

(10) Approval of a precertification training program in an Institute, agency or a public educational institution shall be issued by the Department within 30 working days of the receipt of the application, upon verification of compliance with the regulations for the precertification training program.

(11) No precertification training to be conducted by an Institute shall be approved unless the program meets the following:

(A) The program shall be started within three months of employment of any uncertified nurse assistant in that Institute, and

(B) The program shall be presented in its entirety and completed no later than six months from the date of employment of any uncertified nurse assistant in the program.

(12) No precertification training program to be conducted by an Institute shall be approved unless there is an initial enrollment of five or more uncertified nurse assistants currently employed by an Institute.

(13) Each Institute having an approved precertification training program shall offer such program in its entirety a minimum of one time in each six–month period.

(14) When an Institute makes arrangements for the provision of a precertification training program with an agency or public educational institution, there shall be a written agreement outlining responsibilities for theory and supervision of clinical practice. The agreement shall be signed and dated by the Institute administrator and an authorized representative of the party presenting the precertification training program.

(15) Each public educational institution having an approved precertification training program shall submit an application for renewal and its program for review upon request of the Department.

(16) Each agency and Institute having an approved precertification program shall submit an application for renewal and its program to the Department for review at least annually as determined by the Department.

(17) Failure to submit a precertification training program application for renewal of approval shall result in termination of approval. Reinstitution of precertification training program approval may be granted no earlier than 90 calendar days from the prior approval expiration date.

(18) An Institute, public educational institution or agency shall report in writing to the Department within 30 calendar days any changes in the approved precertification training program.

(19) A precertification training program shall consist of at least the following:

(A) One hundred (100) hours of clinical practice under the direct supervision of the instructor or a licensed nurse which shall usually be conducted during normal working hours and which shall include demonstrations of theory and basic nursing skills. Return demonstrations by the student shall be under the immediate supervision of the instructor or a licensed nurse. During clinical practice there shall be no more than 15 students to each instructor at any time. Clinical practice shall take place in the Skilled Nursing Care Services Unit or Intermediate Care Services Unit of the Institute and shall be conducted concurrently with classroom instruction.

(B) Fifty (50) hours of classroom instruction which may be conducted in the Skilled Nursing Care Services Unit or Intermediate Care Services Unit of the Institute, or in an educational institution and shall consist of at least the following content and for the duration of hours specified.

1. Role and responsibilities as a health team member (eight hours):

a. Introduction.

(i) Course objectives.

(ii) Function and responsibility of the nurse assistant.

(iii) Nursing policies and procedures.

(iv) Legal aspects relevant to long–term care.

(v) Ethics and confidentiality.

(vi) Philosophy of long–term care in relation to geriatrics and chronic illness.

(vii) Patient care plans.

b. Understanding own needs.

(i) Awareness of self.

(ii) Effect of self on others.

c. Cooperative role with health team members in data collection and patient care planning.

d. Principles of observation and assessment of patients.

e. Processes and techniques of communication.

f. Reporting and documentation.

g. Role of the nurse assistant in activity program needs of patients.

2. Principles of safety and infection control (four hours).

a. Body mechanics.

b. Patient positioning, transferring and alignment, including utilization of footboard, bed cradle, overhead frame, hoyer lift, wheelstretcher and special mattresses.

c. Patient safety; side rails, restraints, wheelchairs and ambulation devices.

d. Infection control.

(i) Handwashing.

(ii) Linen handling.

(iii) Transmission and prevention of infection.

(iv) Cleaning of equipment such as thermometers, bedpans, urinals and enema equipment.

3. Patient care skills (28 hours).

a. Communication with patients.

b. Personal hygiene and comfort measures.

(i) Bathing; shower, tub bath, bed bath, shampoo.
(ii) Dressing and undressing.
(iii) Oral hygiene including denture care.
(iv) Care of hearing aids, eyeglasses, prosthetic devices and personal equipment and belongings.
(v) Bed making: occupied and unoccupied.
(vi) Care of the incontinent patient.
(vii) Skin care.
(aa) Routine skin care.
(bb) Prevention of decubitus ulcers.
(cc) Perineal care.
(viii) Care of the patient with a urinary catheter.
c. Treatments and procedures.
(i) Vital signs; temperature (oral, axillary, rectal), pulse, respiration.
(ii) Weight and height.
(iii) Intake–outputs; measuring, estimating, recording.
(iv) Use of bedpans, urinal, commode.
(v) Specimen collection; urine, stool, sputum.
(vi) Application of clean dry dressing and bandages.
(vii) Introduction to bowel and bladder management.
d. Rehabilitation.
(i) Ambulation.
(ii) Range of motion.
(iii) Remotivation.
(iv) Activities of daily living.
e. Physical needs of patients including basic anatomy and physiology.
f. Nutrition.
(i) Four basic food groups and fluids.
(ii) Diets: regular, therapeutic and mechanically altered.
(iii) Cultural and religious customs.
(iv) Techniques of patient feeding and prevention of choking.
4. Emotional, social and spiritual needs of patients (10 hours).
a. Psychosocial needs.
b. Understanding behavior and principles of intervention.
c. Role changes.
d. Socialization needs.
e. Patient's rights.
f. Maintaining and regaining optimum level of health.
g. Spiritual needs of patient and family.
h. Dealing with dying patients and death.

(j) A nurse assistant shall be certified by the Department if the nurse assistant has satisfactorily completed an approved precertification training program as specified in Section 97322.9. The course instructor shall notify the Department in writing no later than 10 working days after the completion of each precertification training program of the names, current address and Social Security numbers of those nurse assistants who successfully completed the program. The notification shall include the dates on which the course began and ended and the signature of the course instructor. The Department shall then issue the certificate to those nurse assistants.

(k) The certificate issued pursuant to this section shall be valid for life and need not be renewed.

(l) The Department may revoke the certificate of a nurse assistant convicted of a crime which the Department determines is substantially related to the practice of a nurse assistant, including any such conviction based upon a plea of nolo contendre. Additionally, the Department may revoke the certificate of a nurse assistant upon a finding of gross incompetence or gross negligence.

(m) All Institutes shall maintain compliance with Section 97322.9. These requirements shall not prohibit the use of alternate concepts, methods, procedures, techniques or personnel qualifications in the provision of nurse assistant training programs provided such exceptions are carried out without reduction in the quality of nurse assistant training, the quality of patient care in the Institute or the ability of the precertification training program to prepare nurse assistants for certification. Such exceptions may only be carried out with the prior written approval of the Department which shall provide for the terms and conditions under which the exception is granted. A written request and substantiating evidence supporting the request shall be submitted by the applicant or licensee to the Department.

(n) A copy of any exception approved granted by the Department under Section 97322.9(m) shall be maintained in the Institute by the administrator and shall be available to all personnel.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97322.11. Employee Personnel Records.

(a) Each Institute shall maintain current, complete and accurate personnel records for all employees.

(1) The record shall include:
(A) Full name.
(B) Social Security number.
(C) Professional license or registration number, if applicable.
(D) Employment classification.
(E) Information as to past employment and qualifications.
(F) Date of beginning of employment.
(G) Date of termination of employment.
(H) Documentation of orientation to the Institute.
(I) Performance evaluations. All employees shall be evaluated on at least a yearly basis.

(2) Such records shall be retained for at least three years following termination of employment. Employee personnel records shall be maintained in a confidential manner, and shall be made available to authorized representatives of the Department or Office upon request.

(b) Records of hours and dates worked by all employees during at least the most recent 12–month period shall be kept on file at the place of employment or at a central location within the State of California. Upon request such records shall be made available, at a time and location specified by the Department.

(c) A permanent log of the temporary health services personnel employed in the Institute shall be kept for three years, and shall include the following:

(1) Employee's full name.
(2) Name of temporary health services personnel agency.
(3) Professional license and registration number and date of expiration, if applicable.
(4) Verification of health status.
(5) Record of hours and dates worked.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code 72533. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97322.13. Employees' Health Examination and Health Records.

(a) All employees working in the Institute, including the administrator, shall have a health examination within 90 days prior to employment or within seven days after employment and at least annually thereafter by a person lawfully authorized to perform such a procedure. Each such examination shall include a medical history and physical evaluation. The report signed by the examiner shall indicate that the person is sufficiently free of disease to perform assigned duties and does not have any health condition that would create a hazard for that person, fellow employees, patients or visitors.

(b) The initial health examination and subsequent annual examination shall include a purified protein derivative intermediate strength introdermal skin test for tuberculosis. A chest X–ray is indicated if the employee has previously had a positive reaction to a tuberculosis skin test or is currently being treated for tuberculosis. Positive reaction to the skin test shall be followed by a 35.56 cm x 43.18 cm (14″ x 17″) chest X–ray. Evidence of tuberculosis screening within 90 days prior to employment shall be considered as meeting the intent of this Section.

(c) The Institute shall maintain a health record of the administrator and for each employee which includes reports of all employment–related health examinations. Such records shall be kept for a minimum of three years following termination of employment.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97322.15. Governance.

Each Institute shall be governed by a governing body which shall be the governing body of a licensed general acute hospital, as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.7, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 4. Environmental Safety and Health

§ 97323.1. Multiple Buildings.

All sections in this article shall apply to each building, physical plant or other separate unit maintained by the Institute for patient care.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97323.3. Fire Safety.

The designee shall conform to the regulations adopted by the State Fire Marshal establishing minimum standards for the prevention of fire and for the protection of life and property against fire and panic. A copy of the State Fire Marshal's current fire clearance shall be available at the Institute.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97323.5. Fire and Internal Disasters.

(a) A written fire and internal disaster plan incorporating evacuation procedures shall be developed with the assistance of qualified fire, safety and other appropriate experts. A copy of the plan shall be available on the premises for review by the staff and the Department.

(b) The written plan shall include at least the following:

(1) Procedures for the assignment of personnel to specific tasks and responsibilities.

(2) Procedures for the use of alarm systems and signals.

(3) Procedures for fire containment.

(4) Priority for notification of staff including names and telephone numbers.

(5) Location of fire–fighting equipment.

(6) An evacuation plan which shall contain procedures for evacuation and specification of evacuation routes.

(7) Procedures for moving patients from damaged areas of the Institute to undamaged areas.

(8) Procedures for emergency transfer of patients who can be moved to other health facilities, including arrangements for safe and efficient transportation.

(9) Procedures for emergency discharge of patients who can be discharged without jeopardy into the community, including prior arrangements for their care, arrangements for safe and efficient transportation and at least one follow–up inquiry within 24 hours to ascertain that patients are receiving their required care.

(10) A disaster tag containing all pertinent personal and medical information to accompany each patient who is moved, transferred, discharged or evacuated.

(11) Procedures for maintaining a record of patient relocation.

(12) Procedures for handling incoming or relocated patients.

(13) Other provisions as dictated by circumstances.

(c) Fire and internal disaster drills shall be held at least quarterly, under varied conditions for each individual shift of the Institute personnel. The actual evacuation of patients to safe areas during a drill is optional.

(d) The evacuation plan shall be posted throughout the Institute and shall include at least the following:

(1) Evacuation routes.

(2) Location of fire alarm boxes.

(3) Location of fire extinguishers.

(4) Emergency telephone number of the local fire department.

(e) A dated, written report and evaluation of each drill and rehearsal shall be maintained and shall include signatures of all employees who participated.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97323.7. Smoking.

(a) Patients shall not be permitted to smoke in or on the bed except when an Institute staff member or other responsible adult is present in the room to ensure safety against fire hazards.

(b) The Institute shall provide designated areas for smoking. Patients shall be permitted to smoke only in designated areas. The designated area shall be under the periodic observation of Institute personnel or responsible adults. This does not preclude the designation of the patients' rooms as smoking areas.

(c) The Institute shall provide a designated area for nonsmoking patients. Such a designated area shall be identified by prominently posted "No Smoking" signs.

(d) Smoking or open flames shall not be permitted in any rooms or spaces where oxygen cylinders are stored or where oxygen is in use. Such rooms or spaces shall be identified by prominently posted "No Smoking" or "No Open Flame" signs.

(e) The Institute shall make every reasonable effort to assign patients to rooms according to the patient's individual nonsmoking or smoking preferences.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97323.9. External Disaster and Mass Casualty Program.

(a) A written external disaster and mass casualty program plan shall be adopted and followed. The plan shall be developed with the advice and

assistance of county or regional and local disaster planning authority and shall not conflict with county and community disaster plans. A copy of the plan shall be available on the premises for review by the Department.

(b) The plan shall provide procedures in event of community and widespread disasters. The written plan shall include at least the following:

(1) Sources of emergency utilities and supplies, including gas, water, food and essential medical supportive materials.

(2) Procedures for assigning personnel and recalling off–duty personnel.

(3) Unified medical command. A chart of lines of authority in the Institute.

(4) Procedures for the conversion of all usable space into areas for patient observation and immediate care of emergency admissions.

(5) Procedures for prompt transfer of casualties when necessary and after preliminary medical or surgical services have been rendered, to the facility most appropriate for administering definitive care. Procedures for moving patients from damaged areas of the facility to undamaged areas.

(6) Arrangements for provision of transportation of patients including emergency housing where indicated. Procedures for emergency transfer of patients who can be moved to other health facilities, including arrangements for safe and efficient transportation and transfer information.

(7) Procedures for emergency discharge of patients who can be discharged without jeopardy into the community, including prior arrangements for their care, arrangements for safe and efficient transportation$and at least one follow–up inquiry within 24 hours to ascertain that patients are receiving required care.

(8) Procedures for maintaining a record of patient relocation.

(9) An evacuation plan, including evacuation routes, emergency phone numbers of physicians, health facilities, the fire department and local emergency medical services agencies and arrangements for the safe transfer of patients after evacuation.

(10) A tag containing all pertinent personal and medical information which shall accompany each patient who is moved, transferred, discharged or evacuated.

(11) Procedures for maintaining security in order to keep relatives, visitors and curious persons out of the Institute during a disaster.

(12) Procedures for providing emergency care to incoming patients from other health facilities.

(13) Assignment of public relations liaison duties to a responsible individual employed by the Institute to release information to the public during a disaster.

(c) The plan shall be reviewed at least annually and revised as necessary to ensure that the plan is current. All personnel shall be instructed in the requirements of the plan. There shall be evidence in the personnel files, or the orientation checklist, indicating that all new employees have been oriented to the plan and procedures at the beginning of their employment.

(d) The Institute shall participate in all local and state disaster drills and test exercises when asked to do so by the local or state disaster or emergency medical services agencies.

(e) A disaster drill shall be held by the Institute at six–month intervals. These shall be a written report of the Institute's participation in each drill or test exercise and shall include signatures of all employees who participated. Staff from all shifts shall participate in drills or test exercises.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97323.11. Reporting of Communicable Diseases.

All cases of reportable communicable diseases shall be reported to the local health officer in accordance with Section 2500, Part 1, Chapter 4, Subchapter 1, Article 1 of Title 17 of the California Administrative Code.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97323.13. Reporting of Outbreaks.

Any outbreak or undue prevalence of infectious or parasitic disease or infestation shall be reported to the local health officer in accordance with Section 2502, Part 1, Chapter 4, Subchapter 1, Article 1 of Title 17 of the California Administrative Code.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97323.15. Unusual Occurrences.

Occurrences such as epidemic outbreaks, poisonings, fires, major accidents or death from unnatural causes, or other catastrophes and unusual occurrences which threaten the welfare, safety or health of patients, personnel or visitors, shall be reported by the Institute within 24 hours either by telephone (and confirmed in writing) or by telegraph to the local health officer, the Department and the Office. An incident report shall be retained on file by the Institute for one year. The Institute shall furnish such other pertinent information related to such occurrences as the local health officer or the Department may require. Every fire or explosion which occurs in or on the premises shall be reported within 24 hours to the local fire authority or, in areas not having an organized fire service, to the State Fire Marshal.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 5. Physical Plant

§ 97324.1. Distinct Part.

The Institute shall provide a distinct part area or areas for each type of services specified in Sub–chapters 3 through 13 that the Institute directly provides.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.3. Multiple Buildings.

All sections in this article shall apply to each building, physical plant or other separate unit maintained by the Institute for patient care.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.5. Application for Plan Review.

(a) Drawings and specifications for alterations to existing buildings or new construction prepared as required by Article 3 of Chapter 7 of Division 7 of Title 22 of the California Administrative Code (commencing with Section 94037), shall be submitted to the Office for approval and shall be accompanied by an application for plan review on forms fur–

nished by the Office. The application shall be accompanied by the fee required by Section 94056 of Title 22. The application shall:

(1) Identify and describe the work to be covered by the plan review for which the application is made.

(2) Describe the land on which the proposed work is to be done, by lot, block, tract or house and street address or similar description that will readily identify and definitely locate the proposed building or work.

(3) Show the present and proposed use or occupancy of all parts of the building or buildings.

(4) State the number of square feet of floor area involved in new construction and in alterations.

(5) Give such other information as may be required by the Office.

(6) Be signed by the person designing the work or the owner of the work.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.7. Space Conversion.

Spaces approved for specific uses at the time of designation shall not be converted to other uses without the approval of the Office.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.9. Notice to Office.

The Office shall be notified, in writing, by the owner, or designee, of the Institute, prior to the commencement of any approved construction, remodeling or alterations to such Institute.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.11. Patient Capacity.

(a) An Institute shall not have more patients or beds set up for use than the number for which it is designated as shown on the Designation Certificate, except in cases of emergency when temporary permission may be granted by the Director.

(b) Patients shall not be housed in areas which have not been approved by the Department for patient housing and which have not been given a fire clearance by the State Fire Marshal except as provided in paragraph (a) above.

(c) The number of beds shown on a Designation Certificate shall not exceed the number of beds for which the Institute meets applicable construction and operational requirements.

(d) Five percent of the designated beds in an Institute may be used for a classification other than that designated. Upon application to the Director of the Department and a showing that seasonal fluctuations justify, the Director of the Department may grant the use of an additional five percent of the beds for other than the designated use.

(e) In the event that a vacant licensed bed is not available for training purposes, facilities with approved precertification training programs may request approval from the appropriate district office of the Department for the designation of a certain bed for clinical practice which would not be included as a bed licensed for the use of patients. The following criteria must be met in order to obtain approval:

(1) The bed is to be designated and utilized for training purposes only.

(2) The bed is to be located in nonpatient sleeping areas, e.g., classroom, examining room, etc. The location of the bed is to be indicated.

(3) The bed shall not be equipped with linen except during staff training hours.

(4) Under no circumstances is a patient to be assigned to the bed designated for training purposes.

(5) The approval of a bed for training purposes only shall be contingent upon the approval of the Institute's precertification training program. If the Institute discontinues its precertification training program, the approval for use of the bed for training purposes is automatically cancelled.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.13. Patient Rooms.

(a) Each patient's room shall be labeled with a number, letter or combination of the two for identification.

(b) Patient's rooms shall not be kept locked when occupied except as approved by the Department.

(c) Only upon the written approval of the Department may any exit door, corridor door, yard enclosures or perimeter fences be locked to egress.

(d) Each patient shall be provided clean, comfortable and reasonably private living accommodations with no more than four patients occupying a room.

(e) Patients shall be accommodated only in rooms approved by the Office with the following minimum floor area:

(1) Single room: 110 square feet

(2) Multibed rooms: 80 square feet per bed

(f) Patient's rooms approved for use by ambulatory patients only shall be identified as follows: The words "Reserved for Ambulatory Patient" in letters at least one–half inch high shall be posted on the outside of the door or on the wall alongside the door where they are visable to persons entering the room.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.15. Special Rooms.

Special rooms shall be maintained as required by Sections 2–1015A(f) and 2–1004B of Title 24 of the California Administrative Code.

NOTE: Authority cited: Sections 1311.5, 1312.7 and 18944, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.17. Patient's Property Storage and Room Furnishings.

(a) Each patient room shall be provided with a closet or locker space for clothing, toilet articles and other personal belongings.

(b) For each licensed bed there shall be provided:

(1) A clean comfortable bed with an adequate mattress, sheets, pillow, pillow case and blankets, all of which shall be in good repair, and consistent with individual patient needs.

(2) A bedside table, chair, overbed table and reading light all of which shall be in good repair.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Sec-

tion 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.19. Provision for Privacy.

Visual privacy for each patient shall be provided as required by Section 2–1015A(j) of Title 24 of the California Administrative Code. Doors providing access to the corridor shall not be considered as meeting this requirement.

NOTE: Authority cited: Sections 1311.5, 1312.7 and 18944, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.21. Public Telephone.

(a) A public telephone shall be installed on each floor accommodating patients. This may not be required in separate buildings having six beds or less which are restricted to occupancy by ambulatory patients.

(b) The telephone at the nurses' station shall not be considered as meeting the requirements of this section.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.23. Space and Equipment for Autoclaving, Sterilizing and Disinfecting.

(a) The Institute shall:

(1) Maintain disposable sterile supplies in the amount necessary to meet the anticipated needs of the patients, or

(2) Maintain autoclave equipment, or

(3) Make contractual arrangements for outside autoclaving and sterilizing services.

(b) If an Institute maintains a central supply and sterilizing area, it shall include but not be limited to:

(1) An autoclave or sterilizer, which shall be maintained in operating condition at all times.

(A) Autoclaves shall be equipped with time recording thermometers in addition to the standard mercury thermometers, except for portable sterilizers and autoclaves.

(B) Instructions for operating autoclaves and sterilizers shall be posted in the area where the autoclaves and sterilizers are located.

(2) Work space.

(3) Storage space for sterile supplies.

(4) Storage space for unsterile supplies.

(5) Equipment for cleaning and sterilizing of utensils and supplies.

(c) The Institute shall provide for:

(1) Effective separation of soiled and contaminated supplies and equipment from the clean and sterilized supplies and equipment.

(2) Clean cabinets for the storage of sterile supplies and equipment.

(3) An orderly system of rotating of supplies so that the supplies stored first shall be used first and that multi–use supplies shall be reautoclaved as they become outdated.

(4) Dating of materials sterilized.

(5) Loading of the autoclave or sterilizer.

(6) Checking of recording and indicating thermometers. Recording thermometer charts shall be on file for one year.

(7) Conducting monthly bacteriological tests. Reports of test results for the last 12 months shall be retained on file.

(8) Length of aeration time for materials that are gas–sterilized.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.25. Housekeeping.

(a) Each Institute shall routinely clean articles and surfaces such as furniture, floors, walls, ceilings, supply and exhaust grills and lighting fixtures.

(b) Schedules and procedures shall be posted which indicate the areas of the Institute which shall be cleaned daily, weekly or monthly. The cleaning schedules and procedures shall be implemented.

(c) Cleaning supplies and equipment shall be available to housekeeping staff. Such cleaning supplies and equipment shall meet the following requirements.

(1) Cleaning supplies and equipment shall be stored in rooms for housekeeping use only.

(2) A commercial detergent germicide shall be used for all cleaning.

(3) Mop heads shall be removable and changed at least daily.

(d) Housekeeping personnel shall be employed to maintain the interior of the Institute in a safe, clean, orderly and attractive manner free from offensive odors.

(e) A person qualified by experience and training shall be in charge of the housekeeping department.

(f) Janitor's closets, service sinks and storage areas shall be clean and maintained to meet the needs of the Institute.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.27. Laundry.

(a) When an Institute operates its own laundry, such laundry shall be:

(1) Located in relationship to other areas so that steam, odors, lint and objectionable noises do not reach patient or personnel areas.

(2) Adequate in size, well–lighted and ventilated to meet the needs of the Institute.

(3) Laundry equipment shall be of a suitable capacity, kept in good repair and maintained in a sanitary condition.

(4) The laundry space shall be maintained in a clean and sanitary condition.

(b) If the Institute does not maintain a laundry service, the commercial laundry utilized shall meet the standards of this section.

(c) Laundry areas shall have, at a minimum, the following:

(1) Separate rooms for the storage of clean linen and soiled linen.

(2) Handwashing and toilet facilities maintained at locations convenient for laundry personnel.

(3) Separate linen carts labeled "soiled" or "clean linen" and constructed of washable materials which shall be laundered or suitably cleaned as needed to maintain sanitation.

(d) Written procedures for handling, storage, transportation and processing of linens shall be posted in the laundry and shall be implemented.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.29. Clean Linen.

(a) Clean linen shall be stored, handled and transported in a way that precludes cross–contamination.

(b) Clean linen shall be stored in clean, ventilated closets, rooms or alcoves, used only for that purpose.

(c) Clean linen not in covered storage shall be covered.

(d) Clean linen from a commercial laundry shall be delivered to a designated clean area in a manner that prevents contamination.

(e) Linen shall not be threadbare and shall be maintained in good repair.

(f) A supply of linen shall be provided sufficient for not less than three complete bed changes for the Institute's designated capacity.

(g) A supply of clean wash cloths and towels shall be provided and available to staff to meet the care needs of the patients.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15)

§ 97324.31. Soiled Linen.

(a) Soiled linen shall be handled, stored and processed in a manner that will prevent the spread of infection.

(b) Soiled linen shall be sorted in a separate room by methods affording protection from contamination.

(c) Soiled linen shall be stored and transported in a closed container which does not permit airborne contamination of corridors and areas occupied by patients and precludes cross contamination of clean linen.

(d) When laundry chutes are used to transport soiled linen, they shall be maintained in a clean, sanitary state.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.33. Provisions for Emptying Bedpans.

Bedpans shall be emptied and cleaned in utility rooms unless toilets adjoining patients' rooms are equipped with flushing attachments and vacuum breakers. Bathtubs, lavatories or laundry sinks shall not be used for cleaning and emptying bedpans.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.35. Signal Systems.

(a) A nurses' signal system shall be maintained in operating order as required by Section 3–517–123, Part 3 of Title 24 of the California Administrative Code.

(b) Nurses' call systems shall be maintained in a manner that will provide viable and audible signal communication between nursing personnel and all inpatient rooms. The minimum requirements are:

(1) A call station or stations providing detachable extension cords to each patient's bed in the patient's room. These extension cords shall be readily accessible to patients at all times unless the attending physician decides otherwise.

(2) A visible signal in the corridor above the corridor door of each patient's bedroom visible from all parts of the corridor.

(3) An audible signal and a nurses' call annunciator indicating the room from which the call originates or an alternate system approved in writing by the Department, shall be located at the nurse's station. The sounding of the audible signal shall be continuous or intermittent until answered.

(c) A nurses' call system shall be provided in each patient's toilet room, bathroom, and shower room in locations easily accessible to the patients. Electric shock hazard shall be eliminated by grounding or by an equally effective method.

(d) The nurses' call system shall be so designed as to require resetting at the station where the call originates unless a two–way voice communication component is included in the system.

(e) A nurses' call system shall be installed in all services units where there are inpatients and in the toilets, bathrooms, and shower rooms of services units serving outpatients of the Institute.

NOTE: Authority cited: Sections 1311.5, 1312.7 and 18944, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.37. Utility Rooms.

Utility rooms shall be maintained as required by Section 2–1015A(i), Part 2 of Title 24 of the California Administrative Code.

NOTE: Authority cited: Sections 1311.5, 1312.7 and 18944, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.39. Handrails.

Corridors shall be equipped with firmly secured handrails as required by Section 2–1005A(d), Part 2 of Title 24 of the California Administrative Code.

NOTE: Authority cited: Sections 1311.5, 1312.7 and 18944, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.41. General Maintenance.

(a) The Institute, including the grounds, shall be maintained in a clean and sanitary condition and in good repair at all times to ensure safety and well–being of patients, staff and visitors.

(b) Buildings and grounds shall be free of environmental pollutants and such nuisances as may adversely affect the health or welfare of patients to the extent that such conditions are within the reasonable control of the Institute.

(c) All buildings, fixtures, equipment and spaces shall be maintained in operable condition.

(d) Personnel shall be employed to provide preventive maintenance and to carry out the required maintenance program.

(e) Equipment provided shall meet all applicable California Occupational Safety and Health Act requirements in effect at the time of purchase. All portable electrical medical equipment designed for 110–120 volts, 60 hertz current, shall be equipped with a three wire grounded power cord with a hospital grade three prong plug. The cord shall be an integral part of the plug.

(f) The Institute shall be maintained free from vermin and rodents through operation of a pest control program. The pest control program shall be conducted in the main patient buildings, all outbuildings on the property and all grounds.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.43. Air Filters.

(a) The designee shall be responsible for regular inspection, cleaning or replacement of all filters installed in heating, air conditioning and ventilating systems, as necessary to maintain the systems in normal operating condition.

(b) A written record of inspection, cleaning or replacement, including static pressure drop, shall be maintained and available for inspection. The record shall include a description of the filters originally installed, the

American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE) efficiency rating and the criteria established by the manufacturer or supplier to determine when replacement or cleaning is necessary.

(c) Following filter replacement or cleaning, the installation shall be visually inspected for torn media and by-pass in filter frames by means of a flashlight or equivalent, both with fans in operation and stopped. Tears in filter media and by-pass in filter frames shall be eliminated in accordance with the manufacturer's directions and as required by the Department.

(d) Where a filter maintenance is performed by an equipment service company, a certification shall be provided to the designee that the requirements listed in this section have been accommodated.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97324.45. Emergency Lighting and Power System.

(a) Auxiliary lighting and power facilities shall be provided as required by Articles 3-517 and 3-700, Part 3 of Title 24 of the California Administrative Code. Flashlights shall be in readiness for use at all times. Open-flame type of light shall not be used.

(b) The designee shall provide and maintain an emergency electrical system in safe and operating condition and in compliance with subsections (d), (e), and (f). The system shall serve all lighting, signals, alarms and equipment required to permit continued operation of all necessary functions of the facility for a minimum of six hours.

(c) If the Department determines that an evaluation of the emergency electrical system of a facility or portion thereof, is necessary, the Department may require the designee to submit a report by a registered electrical engineer which shall establish a basis for alteration of the system to provide reasonable compliance with Articles 3-517 and 3-700, Part 3 of Title 24 of the California Administrative Code. Essential engineering data, including load calculations, assumptions and tests, and where necessary, plans and specifications, acceptable to the Department, shall be submitted in substantiation of the report. When corrective action is determined to be necessary, the work shall be initiated and completed within an acceptable time limit.

(d) The emergency lighting and power system shall be maintained in operating condition to provide automatic restoration of power for emergency circuits within ten seconds after normal power failure.

(e) Emergency generators shall be tested at least every 14 days under full load condition for a minimum of 30 minutes.

(f) A written record of inspection, performance, exercising period and repair of the emergency electrical system shall be regularly maintained on the premises and available for inspection by the Department.

NOTE: Authority cited: Sections 1311.5, 1312.7 and 18944, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97324.47. Storage and Disposal of Solid Wastes.

(a) Solid wastes shall be stored and eliminated in a manner to preclude the transmission of communicable disease. These wastes shall not be a nuisance or a breeding place for insects or rodents nor be a food source for either.

(b) Solid waste containers shall be stored and located in a manner that will minimize odors in patient or dietary areas.

(c) Syringes and needles, before being discarded into waste containers, shall be rendered unusable.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97324.49. Solid Waste Containers.

(a) All containers, except movable bins used for storage of solid wastes, shall have tight-fitting covers in good repair, external handles and be leakproof and rodent proof.

(b) Movable bins, when used for storing or transporting solid wastes from the premises, shall have approval of the local health department and shall meet the following requirements:

(1) Have tight-fitting covers, closed when not being loaded.

(2) Be in good repair.

(3) Be leakproof.

(4) Be rodent proof unless stored in a room or screened enclosure.

(c) All containers receiving putrescrible wastes shall be emptied at least every four days or more if necessary.

(d) Solid waste containers, including movable bins, shall be thoroughly washed and cleaned each time they are emptied unless soil contact surfaces have been completely protected from contamination by disposable liners, bags or other devices removed with the waste. Each movable bin shall be accessible and shall have a drainage device to allow complete cleaning at the storage area.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97324.51. Infectious Waste.

Infectious waste, as defined in Health and Safety Code Section 25117.5, shall be handled and disposed of in accordance with the Hazardous Waste Control Law, Chapter 6.5, Division 20, Health and Safety Code (beginning with Section 25100) and the regulations adopted thereunder (beginning with Section 66001 of this Title).

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97324.53. Gases for Medical Use.

(a) Gases for medical use covered by this section are nonflammable medical gases which include, but are not limited to, oxygen, nitrous oxide, medical compressed air, carbon dioxide, helium, nitrogen and mixtures of such gases when used for medical purposes.

(b) All medical gas systems including those used for respiratory therapy shall meet the provisions of Section 2-1008, Part 2 of Title 24 of the California Administrative Code.

(c) Provisions shall be made for the safe handling and storage of medical gas cylinders.

(d) Transfer of gas by Institute personnel from one cylinder to another shall not be permitted.

(e) Oxygen equipment.

(1) Vaporizer bottles on oxygen equipment shall be sterilized after each use.

(2) Only sterile distilled water shall be used in vaporizer bottles

(3) Vaporizer bottles shall be changed at least every 24 hours.

NOTE: Authority cited: Sections 1311.5, 1312.7 and 18944, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97324.55. Water Supply and Plumbing.

(a) Where water for human consumption is from an independent source, it shall be subjected to bacteriological analysis by the local health department or a licensed commercial laboratory at least every three months. A copy of the most recent laboratory report shall be available for inspection.

(b) Plumbing and drainage facilities shall be maintained as required by Part 5 of Title 24 of the California Administrative Code, Basic Plumbing Requirements. Drinking water supplies shall comply with Group 4, Subchapter 1, Chapter 5, Division T17, Part 6, of Title 24, California Administrative Code.

(c) Vacuum breakers shall be maintained in operating condition as required by Part 5 of Title 24 of the California Administrative Code.

(d) Hot water temperature controls shall be maintained to automatically regulate temperature of hot water delivered to plumbing fixtures used by patients to attain a hot water temperature as required by Section 5–1010, Part 5 of Title 24 of the California Administrative Code.

(e) Minimum hot water temperature shall be maintained at the final rinse section of dishwashing facilities as required by Section Table No. 5–10B, Part 5 of Title 24 of the California Administrative Code unless alternate methods are approved by the Department.

(f) Taps delivering water at or above the stated temperatures shall be in compliance with requirements specified in Section 5–1010, Part 5 of Title 24 of the California Administrative Code. Special precautions shall be taken to prevent the scalding of patients.

(g) Grab bars, readily accessible to patients, shall be maintained at each toilet, bathtub and shower used by patients.

(h) Toilet, handwashing and bathing facilities shall be maintained in operating condition and in the number and types specified in construction requirements in effect at the time the building or unit was constructed. Those handwashing facilities listed in Part 5 of Title 24 of the California Administrative Code, shall not be equipped with aerators.

NOTE: Authority cited: Sections 1311.5, 1312.7 and 18944, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

§ 97324.57. Lighting.

(a) All rooms, attics, basements, passageways, and other spaces shall be provided with artificial illumination as required by Parts 2 and 3 of Title 24 of the California Administrative Code.

(b) All patient rooms shall have a minimum of 30 foot candles of light delivered to reading or working surfaces and not less than 20 foot candles of light in the rest of the room.

(c) All accessible areas of corridors, storerooms, stairways, ramps, exits and entrances shall have a minimum of 2 foot candles of light.

NOTE: Authority cited: Sections 1311.5, 1312.7 and 18944, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.59. Maintenance Manual.

(a) A written manual on maintenance of heating, air conditioning and ventilation systems shall be adopted by each Institute.

(b) A log shall be utilized to document maintenance work performed.

(c) When maintenance is performed by an equipment service company, a certification shall be provided to the Institute that the required work has been performed in accordance with acceptable standards. This certification shall be retained on file in the Institute for review by the Department.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Sections 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.61. Mechanical Systems.

Heating, air conditioning and ventilating systems shall be maintained in normal operating conditions to provide a comfortable temperature and shall meet the requirements of Chapter 4–22, Part 4 of Title 24 of the California Administrative Code.

NOTE: Authority cited: Sections 1311.5, 1312.7 and 18944, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.63. Screens.

Screens shall be provided as required by Section 2–1007A, Part 2 of Title 24 of the California Administrative Code.

NOTE: Authority cited: Sections 1311.5, 1312.7 and 18944, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.65. Storage.

Combined general and specialized storage space shall be maintained as required by Section 2–1010B of Part 2 Title 24 of the California Administrative Code.

NOTE: Authority cited: Sections 1311.5, 1312.7 and 18944, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.67. Construction Variances.

Applicants wishing to obtain variances from the construction requirements of Division 12.5 (commencing with Section 15000) of the Health and Safety Code shall submit their requests on forms provided by the Office.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.69. Recreation and Dining Areas.

Lounge, recreation and dining areas shall be provided apart from sleeping quarters.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.71. Nursing Stations.

(a) Nursing stations shall be maintained in each nursing unit or building.

(b) Nursing stations shall be maintained with a cabinet, a desk, space for records, a bulletin board, a telephone and a specifically designated and well–illuminated medicine storage compartment with a lockable door. If a separate medicine room is maintained, it shall have a lockable door and a medicine sink with water connections. If a nourishment refrigerator is used, the following standards shall apply:

(1) Be located in a clean area not subject to contamination by human waste and subject to the same conditions specified in Section 97321.53(c).

(2) Maintain temperatures at or below 7°C (45°F) for chilling.

Have a freezer unit which will maintain the freezer at or below minus 7°C (20°F).

(4) Have a reliable thermometer in refrigerator at all times.

(5) Food in the refrigerator subject to the same conditions as specified in Section 97321.59(d)(6).

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.73. Disinfecting and Sterilizing.

Each Institute shall make provision for disinfection of contaminated articles or surfaces such as mattresses, linen, thermometers and oxygen tanks.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.75. Maintenance and Operation.

(a) The Institute shall be clean, sanitary and in good repair at all times.

(b) Flashlights shall be in readiness for use at all times. Open flame light shall not be used.

(c) Periodic inspection, testing and calibration of all electrical medical equipment shall be made in accordance with the manufacturer's specifications, but no less frequently than yearly. Records of such inspections and tests shall be retained.

(d) A Institute may be required to submit a report by a licensed structural engineer when the Department has determined that an evaluation of the structural condition of the Institute is necessary. Such report shall establish the existence or nonexistence of structural conditions which are hazardous to occupants and should hazardous conditions exist, such report shall provide a basis for a plan of correction.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97324.77. Cleaning Equipment and Fixtures.

Each Institute shall provide for the cleaning of articles, equipment and surfaces such as furniture, walls, exhaust grills and light and plumbing fixtures.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 6. Standards for All Types of Services

§ 97325.1. Program Flexibility.

The Director may consider and approve in writing a written proposal from an applicant or designee that wishes to use alternative concepts, methods, procedures, techniques, equipment or personnel qualifications, or conduct pilot projects, while providing safe and adequate care to the patient.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97325.3. Other Departments.

Participation in the demonstration project does not preclude the Institute from participating in programs being conducted by other state departments.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97325.5. Advisory Committee.

(a) The Institute shall have an Advisory Committee composed of community representatives and patients' family members appointed by the governing body of the Institute. The Advisory Committee shall meet at least quarterly and shall report to the governing body of the Institute.

(b) The responsibilities of the Advisory Committee shall include but not be limited to advising the governing body on:

(1) Patient care and placement issues.

(2) The need for services to patients, their families and/or caregivers.

(3) The need for research and education programs.

(c) Minutes of each meeting shall be taken and shall reflect policies and issues reviewed and decisions reached.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97325.7. Patient Population.

The proportion of patients receiving each type of services shall approximate the proportion of all patients with Alzheimer's disease and related dementias who require that type of services.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97325.9. Conflict Between Regulations Affecting Types of Inpatient Services.

If there is a conflict between regulations governing two or more types of inpatient services, the regulation requiring a higher level of care shall apply.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.5, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 7. Monitoring and Compliance

§ 97326.1. Access to Records and Facility Sites.

Any duly authorized officer, employee, or agent of the Department or the Office may, upon presentation of proper identification, enter and inspect any building or premises, and inspect any records of the Institute, or enter and inspect any physical setting where patients receive care from a provider under contract or other written agreement with the Institute and inspect the records of those patients, at any reasonable time to secure compliance with, or to prevent a violation of, the provisions of Chapter 22, Statutes of 1986 (Health and Safety Code Sections 1310 et seq.) and this Chapter.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.2, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97326.3. Inspection of Institutes and/or Other Providers of Care.

(a) All Institutes which have been designated by the Office shall be inspected periodically by a representative or representatives of the Department, Office and/or other state department.

(b) Inspections shall be conducted as frequently as necessary but not less than once each year to assure that quality care is being provided. During the inspection, the representative or representatives of the Department, Office or other State departments shall offer such advice and assistance to the Institute as is appropriate.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.2, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97326.5. Consultation.

The Department may provide consulting services upon request to any Institute to assist in the identification or correction of deficiencies or the upgrading of the quality of care provided by the Institute.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.2, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97326.7. Notice of Deficiencies.

The Department shall notify the Institute of all deficiencies of compliance with this Chapter and the Institute shall agree with the Department upon a plan of corrections which will give the Institute a reasonable time to correct such deficiencies.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.2, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97326.9. Follow–up Visit.

(a) A follow–up visit will be made no later than 30 days after an inspection visit which resulted in a notice of deficiencies.

(b) If at the end of the allotted time, as revealed by repeat inspections, the Institute has failed to correct the deficiencies, the Department may recommend to the Office and the Director that designation of the Institute be withdrawn in whole or in part or suspended.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.2, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97326.11. Reasons for Suspending/Withdrawing Demonstration Project Designation.

The Office may suspend or withdraw, in whole or in part, demonstration project designation for any of the following reasons:

(a) On its own motion for any violation of the designation agreement.

(b) On the motion of the Department of Health Services for (1) a violation of the provisions of Chapter 22, Statutes of 1986 (Health and Safety Code Section 1310 et seq.) and this Chapter; (2) aiding, abetting, or permitting the violation of any provisions of Chapter 22, Statutes of 1986 (Health and Safety Code Section 1310 et seq.) and this Chapter; (3) conduct inimical to the public health, morals, welfare, or safety of the people of the State of California in the maintenance and operation of the premises or services for which Alzheimer's Disease Institute designation was given, or the premises or services of a provider which has a contract or other written agreement with the Institute to provide services or care to Institute patients.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.2, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97326.13. Methods of Withdrawing or Suspending Demonstration Project Designation.

(a) The Office may withdraw or suspend, in whole or in part, demonstration project designation by the service of an accusation upon an authorized representative of an Institute. The accusation shall state facts that give rise to the withdrawal or suspension. The withdrawal or suspension shall take effect 30 calendar days after receipt of service, unless the Institute requests a hearing pursuant to subdivision (b) of this section.

(b) If an Institute wants to contest a withdrawal or suspension, in whole or in part, of its demonstration project designation, it may request an administrative hearing. A request for an administrative hearing shall be mailed to the Director of the Office by certified mail, return receipt requested, within 20 calendar days of receipt of the accusation. The Office Director shall then cause a hearing to be held within 30 calendar days after receipt of the request for hearing.

(c) The Director of the Office may temporarily suspend, in whole or in part, demonstration project designation without the right to a prior administrative hearing when in the Director's opinion such action is necessary to protect the public health and safety. The Director of the Office shall notify an authorized representative of an Institute of the effective date of a temporary suspension by service of an accusation which clearly states that it includes a temporary suspension. The temporary suspension shall remain in effect until conclusion of the administrative hearing process described in Section 97326.15, if an administrative hearing is requested. At the conclusion of the administrative hearing process the temporary suspension shall either be lifted in its entirety, modified or made permanent. If no administrative hearing is requested, the temporary suspension shall remain in effect until the Director determines whether the temporary suspension shall be lifted in its entirety, modified or made permanent.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1311.2, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97326.15. Hearing Procedure.

(a) The hearing shall be held by an employee of the Office delegated the responsibility to conduct the hearing by the Director of the Office.The formal rules of evidence shall not apply except that all testimony shall be sworn. An Institute may but need not be represented by counsel.

The hearing will be taped recorded by the Office. The Institute may bring a certified shorthand reporter instead, if it agrees to provide the Office with a copy of the transcript at no charge. The hearing shall proceed as follows:

(1) One or more representatives of the Office or the Department of Health Services shall present the evidence that was the basis for the accusation.

(2) The Institute through its authorized representatives shall be given its opportunity to present its side of the case.

(3) Both parties shall summarize their respective positions.

(4) The case shall then be submitted to the hearing officer for a proposed decision.

(b) The hearing officer shall prepare a Proposed Decision with findings of fact and conclusions of law for submittal to the Director within 10 calendar days of the conclusion of the hearing.

(c) The Director shall then have 10 calendar days to adopt or reject the Proposed Decision.

(d) If the Director does not adopt the Proposed Decision, he or she will furnish a Notice of Rejection of Proposed Decision along with a copy of the Proposed Decision to the Institute through the Institute's authorized representative. The Director will provide the Institute the opportunity to present written arguments to the Office within a reasonable period of time. The Director may also provide the Institute an opportunity to present additional oral arguments before the Office The decision of the Director will be based on the record, including the hearing record, and such additional information as is provided by the Institute. The decision of the Office shall be made within 30 calendar days of the rejection of the Proposed Decision.

(e) The decision of the Director shall be final upon service of a copy of the decision on an authorized representative of the Institute.

NOTE: Authority cited: Sections 1311.5, 1312.7 and 18944, Health and Safety Code. Reference: Section 1311.2, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Subchapter 3. Skilled Nursing Services

Article 1. Definitions

§ 97331.1. Administrator.

Administrator means the program administrator, a person licensed as a nursing home administrator by the California Board of Nursing Home Administrators who has been appointed in writing, and who has responsibility for the operation of the Skilled Nursing Services Unit of the Institute and for all patients receiving care in that unit.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97331.3. Director.

Director means the director of the California Department of Health Services.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97331.5. Nursing Service.

Nursing service means a service staffed, organized and equipped to provide skilled nursing care to patients on a continuous basis.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312.3, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97331.7. Skilled Nursing Services Unit.

Skilled Nursing Services Unit means that distinct part or area or areas of the Institute where skilled nursing care services are provided to patients.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 2. Designation

§ 97332.1. Designation.

A designated Institute shall not need a separate license for the provision of skilled nursing care.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312.3, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 3. Required Services

§ 97333.1. Required Services.

(a) The Skilled Nursing Services Unit shall provide, but shall not be limited to, the following required services: physician, skilled nursing, dietary, pharmaceutical and an activity program.

(b) Written arrangements shall be made for obtaining all necessary diagnostic and therapeutic services prescribed by the patient's attending physician, subject to the policies of the Institute. If the service cannot be brought into the Institute, the Institute shall assist the patient in arranging for transportation to and from the service location.

(c) Arrangements shall be made for an advisory dentist to participate at least annually in he staff development program for all patient care personnel and to approve oral hygiene policies and practices for the care of patients.

(d) The Institute shall ensure that all orders, written by a person lawfully authorized to prescribe, shall be carried out unless contraindicated.

(e) The Institute shall make arrangements for a physician or physicians to be available to furnish emergency medical care if the attending physician or designee is unavailable. The telephone numbers of those physicians shall be posted in a conspicuous place in the Skilled Nursing Services Unit.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97333.3. Nonphysician Practitioners.

(a) Nonphysician practitioners may be permitted to render those medical services which they are legally authorized to perform. Nonphysician practitioners means any of the following:

(1) Physicians' assistants working under the responsibility and supervision of a physician approved as a supervisor by the Board of Medical Quality Assurance and performing only those selected diagnostic and therapeutic tasks identified in Chapter 13, Subchapter 3, Article 5 of Title 16 of the California Administrative Code.

(2) Registered nurses may perform patient care services utilizing "Standardized Procedures" which have been approved by the medical staff, or by the medical director if there is no organized medical staff, the registered nurse and the administrator as authorized in Section 2725, Division 2, Chapter 6, Article 2 of the Business and Professions Code.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97333.5. Physician Services—Supervision of Care.

(a) Each patient assigned to the Skilled Nursing Services Unit shall be under the continuing supervision of a physician who evaluates the patient as needed and at least every 30 days unless there is an alternate schedule, and who documents the visits in the patient's Unit health record.

(b) Alternate schedules of visits shall be documented in the patient's Unit health record with a medical justification by the attending physician. The alternate schedule shall conform with Institute policy.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97333.7. Nursing Service—General.

(a) Nursing service shall include, but not be limited to, the following:

(1) Planning of patient care, which shall include at least the following:

(A) Identification of care needs and development of an individual plan of care based upon the patient's treatment and management plan and on assessment of the patient's needs by the case manager and nursing staff. Initial assessments shall commence at the time of admission of the patient and be completed within seven days after development of the treatment and management plan.

(B) Development of an individual, written nursing care plan which indicates the nursing care to be given and the objectives to be accomplished. Objectives shall be measurable and time–limited.

(C) Reviewing, evaluating and updating of the nursing care plan each time the treatment and management plan is revised and as necessary by the nursing staff and the case manager at least quarterly, and more often if there is a change in the patient's condition.

(2) Implementing of each patient's nursing care plan according to the methods indicated. Each patient's nursing care shall be based on this plan.

(3) Notifying the attending physician promptly of:

(A) Any sudden and/or marked change in signs, symptoms or behavior exhibited by a patient.

(B) Any unusual occurrence involving a patient, as defined in Section 97323.15.

(C) A change in weight of five pounds or more within a 30–day period unless a different stipulation has been stated in writing by the patient's physician.

(D) Any untoward response or reaction by a patient to a medication or treatment.

(E) Any error in the administration of a medication or treatment to a patient which is life threatening and presents a risk to the patient.

(F) The Unit's inability to obtain or administer, on a prompt and timely basis, drugs, equipment, supplies or services as prescribed under conditions which present a risk to the health, safety or security of the patient.

(b) All attempts to notify physicians shall be noted in the patient's Unit health record including the time and method of communication and the name of the person acknowledging contact, if any. If the attending physician or their designee is not readily available, emergency medical care shall be provided as outlined in Section 97333.1.

(c) Licensed nursing personnel shall ensure that patients are served the diets as prescribed by attending physicians.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97333.9. Nursing Service—Administration of Medications and Treatments.

(a) Medications and treatments shall be administered as follows:

(1) No medication or treatment shall be administered except on the order of a person lawfully authorized to give such order.

(2) Medications and treatments shall be administered as prescribed.

(3) Tests and taking of vital signs, upon which administration of medications or treatments are conditioned, shall be performed as required and the results recorded.

(4) Preparation of doses for more than one scheduled administration time shall not be permitted.

(5) All medications and treatments shall be administered only by licensed medical or licensed nursing personnel with the following exceptions:

(A) Students in the healing arts professions may administer medications and treatments only when the administration of medications and treatments is incidental to their course of study as approved by the professional board or organization legally authorized to give such approval.

(B) Unlicensed persons may, under the direct supervision of licensed nursing or licensed medical personnel, during training or after completion of training and demonstrated evidence of competence, administer the following:

1. Medicinal shampoos and baths.
2. Laxative suppositories and laxative enemas.
3. Nonlegend topical ointments, creams, lotions and solutions when applied to intact skin surfaces. Unlicensed persons shall not administer any medication associated with treatment of eyes, ears, nose, mouth, or genitourinary tract.

(6) Medications shall be administered as soon as possible, but no more than two hours after doses are prepared, and shall be administered by the same person who prepares the doses for administration. Doses shall be administered within one hour of the prescribed time unless otherwise indicated by the prescriber.

(7) Patients shall be identified prior to the administration of a drug or treatment.

(8) Drugs may be administered in the absence of a specific duration of therapy on a licensed prescriber's new drug order if the Institute applies its stop–order policy for such drugs. The prescriber shall be contacted prior to discontinuing therapy as established by the stop–order policy.

(b) No medication shall be used for any patient other than the patient for whom it was prescribed.

(c) The time and dose of the drug or treatment administered to the patient shall be recorded in the patient's individual medication record by the person who administers the drug or treatment. Recording shall include the date, the time and the dosage of the medication or type of treatment. Initials may be used, provided that the signature of the person administering the medication or treatment is also recorded on the medication or treatment record.

(d) Oxygen equipment shall be maintained as follows:

(1) Humidifier bottles on oxygen equipment shall be changed and sterilized at least every 24 hours.

(2) Only sterile distilled, demineralized or de–ionized water shall be used in humidifier bottles.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97333.11. Nursing Service—Patient Care.

(a) Each patient shall be treated as an individual with dignity and respect and shall not be subjected to verbal or physical abuse of any kind.

(b) Each patient, upon admission to the Skilled Nursing Services Unit, shall be given orientation to the Unit and the services and staff of that Unit.

(c) Each patient shall be provided care which shows evidence of good personal hygiene, including care of the skin, shampooing and grooming of hair, oral hygiene, shaving or beard trimming, cleaning and cutting of fingernails and toenails. The patient shall be free of offensive odors.

(d) Each patient shall be encouraged and/or assisted to achieve and maintain the highest level of self-care and independence. Every effort shall be made to keep patients active, and out of bed for reasonable periods of time, except when contraindicated by physician's orders.

(e) Each patient shall be given care to prevent formation and progression of decubiti, contractures and deformities. Such care shall include:

(1) Changing position of bedfast and chairfast patients with preventive skin care in accordance with the needs of the patient.

(2) Encouraging, assisting and training in self-care and activities of daily living.

(3) Maintaining proper body alignment and joint movement to prevent contractures and deformities.

(4) Using pressure-reducing devices where indicated.

(5) Providing care to maintain clean, dry skin free from feces and urine.

(6) Changing of linens and other items in contact with the patient, as necessary, to maintain a clean, dry skin free from feces and urine.

(7) Carrying out of physician's orders for treatment of decubitus ulcers. The Skilled Nursing Services Unit staff shall notify the physician, when a decubitus ulcer first occurs, as well as when treatment is not effective, and shall document such notifications as required in Section 97333.7.(b).

(g) Each patient requiring help in eating shall be provided with assistance when served, and shall be provided with training or adaptive equipment in accordance with identified needs, based upon patient assessment, to encourage independence in eating.

(h) Each patient shall be provided with good nutrition and with necessary fluids for hydration.

(i) Measures shall be implemented to prevent and reduce incontinence for each patient and shall include:

(1) Written assessment by a licensed nurse to determine the patient's ability to participate in a bowel and/or bladder management program. This is to be initiated within two weeks after admission of an incontinent patient.

(2) An individualized plan, in addition to the patient care plan, for each patient in a bowel and/or bladder management program.

(3) A weekly written evaluation in the progress notes by a licensed nurse of the patient's performance in the bowel and/or bladder management program.

(j) Fluid intake and output shall be recorded for each patient as follows if ordered by a physician or if the patient has an indwelling catheter:

(1) Intake and output records shall be evaluated at least weekly and each evaluation shall be included in the licensed nurse's progress notes.

(2) After 30 days the patient shall be reevaluated by the licensed nurse to determine further need for the recording of intake and output.

(k) The weight and length of each patient shall be taken and recorded in the patient's Unit health record upon admission, and the weight shall be taken and recorded once a month thereafter.

(l) Each patient shall be provided visual privacy during treatments and personal care.

(m) Patient call signals shall be answered promptly.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97333.13. Nursing Service—Standing Orders.

Standing orders shall not be used in the Skilled Nursing Services Unit.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).
2. Editorial correction of HISTORY 1 (Register 95, No. 44).

§ 97333.15. Nursing Service—Restraints and Postural Supports.

(a) Written policies and procedures concerning the use of restraints and postural supports shall be followed.

(b) Restraints shall only be used with a written order of a physician or other person lawfully authorized to prescribe care.

(c) The only acceptable forms of physical restraints shall be cloth vests, soft ties, soft cloth mittens, seat belts and trays with spring release devices. Soft ties means soft cloth which does not cause abrasion and which does not restrict blood circulation.

(d) Restraints of any type shall not be used as punishment, as a substitute for more effective medical and nursing care, or for the convenience of staff.

(e) No restraints with locking devices shall be used or available for use in the Skilled Nursing Services Unit.

(f) Seclusion, which is defined as the placement of a patient alone in a room, shall not be employed.

(g) Restraints shall be used in such a way as not to cause physical injury to the patient and to ensure the least possible discomfort to the patient.

(h) Physical restraints shall be applied in such a manner that they can be speedily removed in case of fire or other emergency.

(i) Supportive restraints shall be fashioned or tied in a manner which permits the restrained patient to release the restraint without assistance.

(j) The requirements for the use of physical restraints are:

(1) Treatment restraints may be used for the protection of the patient during treatment and diagnostic procedures such as, but not limited to, intravenous therapy or catheterization procedures. Treatment restraints shall be applied for no longer than the time required to complete the treatment.

(2) Physical restraints for behavior control shall only be used on the signed order of a physician or other person lawfully authorized to prescribe care except in an emergency which threatens to bring immediate injury to the patient or others. In such an emergency an order may be received by telephone, and shall be signed within 5 days. Full documentation of the episode leading to the use of the physical restraint, the type of the physical restraint used, the length of effectiveness of the restraint time and the name of the individual applying such measures shall be entered in the patient's health record.

(A) Physical restraints for behavioral control shall be used only with a written order designed to lead to a less restrictive way of managing, and ultimately to the elimination of, the behavior for which the restraint is applied. There shall be no PRN orders for behavioral restraints.

(B) Each patient care plan which includes the use of physical restraint for behavior control shall specify the behavior to be eliminated, the method to be used and the time limit for the use of the method.

(C) Patients shall be restrained only in an area that is under supervision of staff and shall be afforded protection from other patients who may be in the area.

(j) When drugs are used to restrain or control behavior or to treat a disordered thought process, the following shall apply:

(1) The specific behavior or manifestation of disordered thought process to be treated with the drug is identified in the patient's Unit health record.

(2) The plan of care for each patient shall specify data to be collected for use in evaluating the effectiveness of the drugs and the occurrence of adverse reactions.

(3) The data collected shall be made available to the prescriber in a consolidated manner at least monthly.

(4) PRN orders for such drugs shall be subject to the requirements of this section.

(k) Postural support means a method other than orthopedic braces used to assist patients to achieve proper body position and balance. Postural supports may only include soft ties, seat belts, spring release trays or cloth vests and shall only be used to improve a patient's mobility and independent functioning, to prevent the patient from falling out of a bed or chair, or for positioning, rather than to restrict movement. These methods shall not be considered restraints.

(1) The use of postural support and the method of application shall be specified in the patient's care plan and approved in writing by the physician or other person lawfully authorized to provide care.

(2) Postural supports shall be applied:

(A) Under the supervision of a licensed nurse.

(B) In accordance with principles of good body alignment and with concern for circulation and allowance for change of position.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97333.17. Nursing Service—Patients with Infectious Diseases.

(a) Patients with infectious diseases shall not be admitted to or cared for in the Skilled Nursing Services Unit unless the following requirements are met:

(1) A patient suspected of or diagnosed as having an infectious or reportable communicable disease or being in a carrier state who the attending officer determines is a potential danger, shall be accommodated in a room, vented to the outside, and provided with a separate toilet, hand–washing facility, soap dispenser and individual towels.

(2) There shall be:

(A) Separate provisions for handling contaminated linens.

(B) Separate provisions for handling contaminated dishes.

(b) The Skilled Nursing Services Unit shall adopt, observe and implement written infection control policies and procedures. These policies and procedures shall be reviewed at least annually and revised as necessary.

(c) The following shall be available in each nurse's station:

(1) The Skilled Nursing Services Unit's infection control policies and procedures.

(2) Name, address and telephone number of local health officers.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97333.19. Nursing Service—Cleaning, Disinfecting and Sterilizing.

(a) The Skilled Nursing Services Unit shall adopt a written manual on cleaning, disinfecting and sterilizing procedures. The manual shall include procedures to be used in the care of utensils, instruments, solutions, dressings, articles and surfaces and shall be available for use by Institute personnel. All procedures shall be carried out in accordance with the manual.

(b) The Skilled Nursing Services Unit of the Institute shall make provisions for the cleaning and disinfecting of contaminated articles and surfaces which cannot be sterilized.

(c) Bedside equipment including but not limited to washbasins, emesis basins, bedpans and urinals shall be sanitized only by one of the following methods:

(1) Submersion in boiling water for a minimum of 30 minutes.

(2) Autoclaving at 15 pounds pressure and 121°C (250°F) for 20 minutes.

(3) Gas sterilization.

(d) Chemicals shall not be used as a substitute for the methods specified in (c) above.

(e) Electronic thermometers shall be cleaned and disinfected according to the manufacturer's instructions. Glass thermometers shall be cleaned and disinfected for at least 10 minutes with 70 percent ethyl alcohol or 90 percent isopropyl alcohol with 0.2 percent iodine. Oral and rectal thermometers shall be stored separately in clean, labeled containers with fitted lids.

(f) Individual patient care supply items designed and identified by the manufacturer to be disposable shall not be reused.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97333.21. Nursing Service—Space.

(a) A nursing station shall be maintained in each nursing unit or building.

(b) Each nursing station shall have a cabinet, a desk, space for records, a bulletin board, a telephone and a specifically designated and well illuminated medication storage compartment with a lockable door. If a separate medication room is maintained, it shall have a lockable door and a sink with water connections for care of equipment and for handwashing.

(c) If a refrigerator is provided in a nursing station, the refrigerator shall meet the following standards:

(1) Be located in a clean area not subject to contamination by human waste.

(2) Maintain temperatures at or below 70°C (45°F) for chilling.

(3) Have a freezer unit which will maintain the freezer at minus 18°C (0°F).

(4) Contain an accurate thermometer at all times.

(5) If foods are retained in the refrigerator, they shall be covered and clearly identified as to contents and date initially covered.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97333.23. Nursing Service—Staff.

(a) Nursing service personnel shall be employed and on duty in at least the number and with qualifications determined by the Department to provide the necessary nursing services for patients admitted for care. The Department may require the Skilled Nursing Services Unit to provide additional staff as set forth in Section 97335.1.

(b) The Skilled Nursing Services Unit designated for 59 or fewer skilled nursing care beds shall have at least one registered nurse or a licensed vocational nurse, awake and on duty, in the Unit at all times, day and night.

(c) The Skilled Nursing Services Unit designated for 60 to 99 skilled nursing care beds shall have at least one registered nurse or licensed vocational nurse, awake and on duty, in the Unit at all times, day and night.

(d) The Skilled Nursing Services Unit designated for 100 or more skilled nursing care beds shall have at least one registered nurse, awake, an on duty, in the Unit at all times, day and night.

(e) Nursing stations shall be staffed with nursing personnel when patients are housed in the Skilled Nursing Services Unit.

(f) Each Skilled Nursing Services Unit shall employ sufficient nursing staff to provide a minimum daily average of 3.0 nursing hours per patient day.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 4. Administration

§ 97335.1. Designee—General Duties.

(a) Except where provided for in approved continuing care arrangements, or except when approved by the Department, no Institute owner, designee, administrator, employee or representative thereof shall act as guardian or conservator of a patient within the Skilled Nursing Services Unit or of that patient's estate or both unless that patient is a relative within the second degree of consanguinity.

(b) The Department may require the Institute and/or designee to provide additional professional, administrative or supportive personnel in the Skilled Nursing Services Unit whenever the Department determines through a written evaluation that additional personnel is needed to provide for the health and safety of the patient.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97335.3. Program Administrator.

(a) Each Skilled Nursing Services Unit shall employ a program administrator, a person licensed as a nursing home administrator, to administer and manage the Unit and to carry out the policies of the Institute. The administrator shall be responsible only for the administration and management of the Skilled Nursing Services Unit.

(b) The administrator shall designate in writing a responsible adult who is knowledgeable in the policies and procedures of the Institute in the Skilled Nursing Services Unit, to be responsible for carrying out the policies of the designee or Institute in the program administrator's absence.

(c) The program administrator shall have sufficient freedom from other responsibilities and shall be on the premises of the Skilled Nursing Services Unit of the Institute, a sufficient number of hours to permit adequate attention to the management and administration of that unit.

(d) The Department may require that the program administrator spend additional hours in the Skilled Nursing Services Unit, whenever the Department determines through a written evaluation that such additional hours are needed to provide adequate administrative management.

(e) An updated copy of this Sub–chapter shall be maintained by the program administrator and shall be available to all personnel.

(f) The program administrator shall be responsible for informing appropriate staff of the applicable additions, deletions and changes to this Sub–chapter and any other regulations applicable to the Skilled Nursing Services Unit of the Institute.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).
2. Editorial correction of subsection (b) (Register 95, No. 44).

Subchapter 4. Intermediate Care Services

Article 1. Definitions

§ 97341.1. Administrator.

Administrator means the program administrator, a person licensed as a nursing home administrator by the California Board of Nursing Home Administrators, who has been appointed in writing, and who has responsibility for the operation of the Intermediate Care Services Unit and for all patients receiving care in that Unit.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97341.3. Director.

Director means the Director of the State Department of Health Services.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97341.5. Intermediate Care Services Unit.

Intermediate Care Services Unit means that distinct part or area or areas of the Institute where intermediate care services are provided to patients.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97341.7. Nursing Service.

Nursing service means a service staffed, organized and equipped to provide nursing care for patients who have need for skilled nursing supervision and need supportive care but do not require continuous nursing care.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 2. Designation

§ 97342.1. Designation.

A designated Institute shall not need a separate license for the provision of intermediate care.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312.3, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Sec-

tion 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 3. Services

§ 97324.1. Required Services.

(a) The Intermediate Care Services Unit shall provide as a minimum the following required services: physician, intermittent nursing, dietary, pharmaceutical and an activity program. Such activity program shall be provided in accordance with the provisions of Sections 97321.95 through 97321.103.

(b) Written arrangements shall be made for obtaining all necessary diagnostic and therapeutic services prescribed by the attending physician, subject to the policies of the Institute. If the service cannot be brought into the Institute, the Institute or the Intermediate Care Services Unit shall assist the patient, if necessary, in arranging for transportation to and from the service location.

(c) Provision shall be made for dental examinations and dental treatments by a dentist as indicated by the needs of the patient.

(d) Arrangements shall be made for one or more physicians to be called in an emergency.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97343.3. Nursing Service—General.

Nursing service shall include, but not be limited to, the following:

(a) Identification of care needs and development of an individual plan of care for each patient based on the treatment and management plan and on an assessment of the patient's needs by the case manager and nursing staff. The plan shall be reviewed each time the treatment and management plan is reviewed and revised as needed by the nursing staff and case manager but not less often than quarterly.

(b) Notification of the attending physician immediately of any patient exhibiting unusual signs or behavior.

(c) Ensuring that patients are served the diets as prescribed by attending physicians, and that patients are provided with the necessary and acceptable equipment for eating and that prompt assistance in eating is given when needed.

(d) Any marked or sudden change in weight shall be reported promptly to the attending physician.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97343.5. Nursing Service—Drug Administration.

Nursing service shall include but not be limited to the following, with respect to the administration of drugs:

(a) Medications and treatments shall be administered as prescribed and shall be recorded in the patient's Unit health record.

(b) Preparation of doses for more than one scheduled administration time shall not be permitted.

(c) Medications shall only be administered by personnel who have completed a state–approved training program in medication administration.

(d) Medications shall be administered as soon as possible after doses are prepared and shall be administered by the same person who prepared the doses for administration. Doses shall be administered within one hour of the prescribed time unless otherwise indicated by the prescriber.

(e) Patients shall be identified prior to the administration of a drug.

(f) The time and dose of a drug administered to the patient shall be properly recorded in each patient's medication record by the person who administered the drug.

(g) No medication or treatment shall be given except on the order of a person lawfully authorized to give such order.

(h) Telephone orders shall be received only by a licensed nurse or pharmacist and shall be recorded immediately in the patient's Unit health record and shall be signed by the prescriber within 48 hours.

(i) Medications brought by or with the patient to the Intermediate Care Services Unit shall not be used unless all of the conditions specified in Section 97321.83 are met.

(j) A registered nurse or a pharmacist shall review each patient's medications monthly and, if appropriate, request a review from the patient's attending physician.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97343.7. Nursing Service—Patient Care.

(a) Each patient shall be treated as an individual with dignity and respect and shall not be subjected to verbal or physical abuse of any kind.

(b) Each patient, upon admission, shall be given proper orientation to the Institute and the Institute's services and staff.

(c) Each patient shall show evidence of good personal hygiene, including care of the skin, shampooing and grooming of hair, oral hygiene, shaving or beard trimming, cleaning and cutting of fingernails and toenails and shall be free of offensive odors.

(d) Each patient shall be encouraged and/or assisted to achieve and maintain their highest level of self–care and independence. Every effort shall be made to keep patients active except when contraindicated by physician's orders.

(e) Such supportive and restorative nursing and personal care as needed to maintain maximum functioning of the patient shall be provided.

(f) Treatment for minor illness or routine treatments for minor disorders when ordered by the physician shall be administered by nursing personnel.

(g) Bedside nursing care may be provided on a temporary basis when the attending physician determines the illness to be temporary and minor.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97343.9. Nursing Service—Policies and Procedures.

(a) Written policies and procedures developed by the Director of Nursing Services and approved by the Patient Care Policy Committee shall be available to all nursing personnel. Such policies and procedures shall include:

(1) An organization chart of the nursing service showing staff positions, lines of authority and communication.

(2) Specific instruction on the preparation, review and updating of individual patient care plans.

(3) A current nursing procedure manual.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97343.11. Nursing Service—Staff.

(a) Nursing service staff shall be employed in the number and with the qualifications determined by the Department of Health Services to pro-

vide the necessary services for those patients admitted for care. The Department may require the Intermediate Care Services Unit to provide additional staff whenever the Department determines through a written evaluation of patients and patient care in the Unit that such additional staff are needed to provide adequate nursing care and treatment or to provide for the safety of the patients.

(b) The Intermediate Care Services Unit shall have a registered nurse or licensed vocational nurse on duty eight hours per day on the day shift, seven days per week. In case of Units where a licensed vocational nurse serves as the supervisor in the Intermediate Care Services Unit, consultation shall be provided by a registered nurse, through formal contract, at regular intervals but not less than four hours weekly.

(c) Institutes with 100 or more intermediate care beds in the Intermediate Care Services Unit, shall employ a registered nurse eight hours per day, on the day shift, seven days per week. In addition, a registered nurse or licensed vocational nurse shall be employed four hours per day, seven days per week, during the day for each 50 beds or portion thereof in excess of 100 in the Intermediate Care Services Unit.

(d) Nursing stations shall be staffed by nursing personnel on a 24 hour basis when patients are housed in the Intermediate Care Services Unit.

(e) Each Institute shall employ sufficient staff in the Intermediate Care Services Unit, to provide a minimum average of 1.1 nursing hours per patient day.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97343.13. Nursing Service—Equipment and Supplies.

(a) Equipment and supplies of the quality and in the quantity necessary for care to patients, as ordered or indicated, shall be provided and shall include but not be limited to:

(1) Water pitchers, emesis basins, denture cups, ice caps, urinals, bedpans, thermometers, stethoscope, sphygmomanometer, ear syringe, hypodermic syringes and needles and scales for weighing patients.

(2) A sufficient supply of wheelchairs and walkers to meet the needs of patients and maintained in clean and operable condition.

(3) Supplies necessary to perform urine sugar and acetone testing.

(4) Current and authoritative nursing reference material.

(5) First aid equipment and supplies, as determined by the Patient Care Policy Committee, readily available at all times.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 4. Administration

§ 97345.1. Designee—General Duties.

(a) Except where provided for in approved continuing care agreements, no Institute owner, designee, administrator, employee or representative thereof shall act as guardian or conservator of a patient of an Intermediate Care Services Unit, or the patient's estate or both.

(b) The Department may require the Institute and/or designee to provide additional professional, administrative or supportive personnel in the Intermediate Care Services Unit whenever the Department determines through a written evaluation that additional personnel is needed to provide for the health and safety of patients.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97345.3. Program Administrator.

(a) The Intermediate Care Services Unit of the Institute shall employ a program administrator to administer and manage the Unit and to carry out the policies of the Institute. The administrator shall be responsible only for the administration and management of the Intermediate Care Services Unit.

(b) The administrator shall designate a responsible adult who is knowledgeable in the policies and procedures of the Institute, to be responsible for carrying out the policies of the designee or Institute in the program administrator's absence.

(c) The program administrator shall have sufficient freedom from other responsibilities and shall be on the premises of the Intermediate Care Services Unit a sufficient number of hours to permit adequate attention to the management and administration of that unit.

(d) The Department may require that the program administrator spend additional hours in the Intermediate Care Services Unit, whenever the Department determines through a written evaluation that such additional hours are needed to provide adequate administrative management.

(e) An updated copy of this Subchapter shall be maintained by the program administrator and shall be available to all personnel.

(f) The program administrator shall be responsible for informing appropriate staff of the additions, deletions and changes to this Subchapter and to rules and regulations applicable to the Intermediate Care Services Unit.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Subchapter 5. Outpatient Care Definitions

Article 1. Definitions

§ 97350.1. Administrator.

Administrator means the program administrator, who has been appointed in writing, and who has responsibility for the operation of the Outpatient Care Services Unit, and all patients receiving care in that Unit.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97350.3. Dental Clinic.

Dental clinic means a division or a unit of an Outpatient Care Services Unit which provides direct dental services to patients.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97350.5. Outpatient Care.

Outpatient care means the rendering of nonemergency health care services to patients who remain in the Institute less than 24 hours with the appropriate staff, space, equipment and supplies.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97350.7. Outpatient Care Services Unit.

The Outpatient Care Services Unit means that distinct part or area or areas of the Institute where Outpatient Care Services are provided to patients.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97350.9. Podiatric Clinic.

Podiatric clinic means a division or a unit of an Outpatient Care Services Unit which provides direct podiatric services to patients.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 2. Designation

A designated Institute shall not need a separate license for the provision of outpatient care services.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312.3, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 3. Basic Services

§ 97352.1. Basic Services—General Requirements.

(a) The Outpatient Care Services Unit shall provide diagnostic, therapeutic, radiological, laboratory and other services for the care and treatment of patients.

(b) All advice, diagnosis, treatment, drugs and appliances shall be provided only by persons authorized by law to provide such services.

(c) A Unit shall only provide those services for which it is organized, staffed, and equipped. An Outpatient Care Services Unit shall provide at least the following:

(1) Direction or supervision of each service provided by a person licensed, certified or registered to provide such service.

(2) Written patient care policies and reference materials readily available to personnel.

(3) Equipment, apparatus and appliances required for the provision of all services offered by the Outpatient Care Services Unit.

(d) The Unit may be required by the Department to obtain consultation where necessary to meet the patient care standards specified in these regulations.

(e) If the Outpatient Care Services Unit provides radiological services on the premises, it shall comply with Chapter 5, Subchapter 4, of Title 17 of the California Administrative Code, and Section 2–1019A, Chapter 2–10A, Part 2, of Title 24 of the California Administrative Code.

NOTE: Authority cited: Sections 1311.5, 1312.7 and 18944, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97352.3. Basic Services—Medical Staff.

(a) The Outpatient Care Services Unit shall have a licensed physician designated as the administrator.

(b) The administrator's responsibilities, acting alone or through an organized staff, shall include:

(1) Establishing, reviewing and maintaining medical, dental or podiatric policies and standards, which shall be reviewed at least annually.

(2) Assuring the quality of medical, podiatric or dental services provided to all patients treated by the Outpatient Care Services Unit.

(3) Reviewing and approving all protocols used by the Outpatient Care Services Unit.

(4) Establishing and implementing a system of peer review, pursuant to written procedures.

(5) Reviewing credentials and delineating clinical privileges for the physicians, dentists and/or podiatrists providing service in the Outpatient Care Services Unit.

(c) At least one staff member of the Outpatient Care Services Unit shall have admitting privileges to a hospital for ensuring needed hospital services. When the Outpatient Care Services Unit provides multiple services such as medical and dental services, each discipline shall have admitting privileges to an accessible hospital or a plan, as approved by the Department, for ensuring needed hospital services.

(d) A physician, physician's assistant or a registered nurse shall be present whenever medical services are provided.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97352.5. Basic Services—Nursing Staff.

(a) Every Outpatient Care Services Unit shall employ a registered nurse responsible for nursing services.

(b) A licensed nurse shall be present whenever nursing services are provided.

(c) Qualified nursing personnel shall be employed to meet the needs of the Outpatient Care Services Unit. The number and type of patients shall be taken into consideration.

(d) Employees of the Outpatient Care Services Unit who provide direct patient care shall be under the supervision of a registered nurse or physician.

(e) Nursing service shall include identification of patient care needs and development of an individual plan of are based on the treatment and management plan and on assessment of the patient's needs by the case manager and nursing staff.

(f) The patient's care plan shall be reviewed each time the treatment and management plan is reviewed or at least quarterly and shall be revised as necessary.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97352.7. Basic Services—Other Health Personnel.

(a) Health personnel shall be employed to furnish the preventive, diagnostic and therapeutic services prescribed for patients accepted for care by the Outpatient Care Services Unit. Such health personnel shall be qualified in accordance with current legal, professional and technical standards and shall be appropriately licensed, registered or certified where required.

(b) The administrator shall ensure that, in addition to meeting the licensing, certification or other legal requirements, all health personnel are qualified by training and experience to perform those services they are assigned to provide.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97352.9. Basic Services—Policies and Procedures.

(a) Written policies and procedures which the Outpatient Care Services Unit shall implement shall include, but not be limited to:

(1) Description of the types and scope of services which the Outpatient Care Services Unit will provide.

(2) Policies relating to patient care.

(3) Provisions for the education of patients in preventive, therapeutic and health maintenance care.

(4) Plans for follow–up of patients treated in the Outpatient Care Services Unit.

(5) Provision for handling emergencies and unusual occurrences.

(6) Procedures for emergency consultation, and a list of physicians available for emergency consultation.

(7) Nursing procedures used in the Outpatient Care Services Unit.

(8) Written infection control policies and procedures.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97352.11. Basic Services—Equipment and Supplies.

(a) Each Outpatient Care Services Unit shall have equipment and supplies available to provide for the medical, dental or podiatric services offered and to meet the needs of the patients served.

(b) The Outpatient Care Services Unit shall have equipment available for emergency treatment of patients. Such equipment shall be determined by the administrator and a licensed nurse in accordance with the scope of services provided by the Outpatient Care Services Unit. A list of such equipment and its location shall be posted.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 4. Drug Distribution

§ 97353.1. Drug Distribution Service—General Requirements.

(a) An Outpatient Care Services Unit which provides drug distribution service shall provide such service in conformance with state, federal and local laws.

(b) All dangerous drugs not owned by and stored in a licensed pharmacy shall be owned by a licensed physician, dentist or podiatrist.

(c) A list of drugs available for use in the Outpatient Care Services Unit shall be maintained.

(d) If a pharmacy is located on the premises, the pharmacy shall be licensed by the California State Board of Pharmacy.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97353.3. Drug Distribution Service—Policies and Procedures.

Each Outpatient Care Services Unit which provides drug distribution services shall have written policies and procedures for the safe and effective distribution, control, storage, use and disposition of drugs.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97353.5. Drug Distribution Service—Orders for Drugs.

(a) No drugs shall be administered except on the written order of a person lawfully authorized to give such order, except in accordance with subsection 97353.5(c).

(b) Orders for drug administration shall be entered into the patient's Unit health record and be signed by the prescriber and shall include the drug name, dosage, time or frequency of administration, and if other than oral, the route of administration.

(c) Telephone orders for drug administration shall be given only to a physician, licensed nurse, pharmacist or physician's assistant. Such orders shall be signed by the person giving the order within ten days.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97353.7. Drug Distribution Service—Administration of Drugs.

Drugs shall be administered as prescribed and shall be recorded in the patient's Unit health record.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97353.9. Drug Distribution Service—Dispensing of Drugs.

(a) Drugs shall only be dispensed by a physician, pharmacist or other persons lawfully authorized to dispense and shall be in compliance with all applicable laws and regulations.

(b) A record of the drugs dispensed shall be entered in the patient's Unit health record.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97353.11. Drug Distribution Service—Storage of Drugs.

(a) Drug containers which are cracked, soiled or without secure closures shall not be used.

(b) Drugs shall not be kept in stock after the expiration date on the label. No contaminated or deteriorated drugs shall be used.

(c) Drugs shall be stored in an orderly manner in specifically designated cupboards, cabinets, closets or drawers.

(d) Refrigerators containing drugs shall be maintained between 2°C (36°F) and 8°C (46°F). Room temperature for drug storage shall not exceed 30°C (86°F).

(e) Drugs shall be accessible only to personnel designated in writing by the administrator. Controlled drugs shall be accessible only to physi-

cians, dentists, podiatrists, physician's assistants, licensed nurses, and pharmacists.

(f) Drugs for external use in liquid, tablet, capsule or powder form shall be stored separately from drugs for internal use.

(g) Test reagents, germicides, disinfectants and other household substances shall be stored separately from drugs.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97353.13. Drug Distribution Service—Staff.

(a) If the Outpatient Care Services Unit dispenses drugs, a pharmacist or a physician shall have responsibility for the drug distribution service, including the procurement, storage and distribution of all drugs, as well as the development, coordination, supervision and review of the drug distribution service.

(b) Persons who participate in drug distribution services shall be trained in the procedures they are assigned to carry out. Such training shall be conducted by the person responsible for the drug distribution service.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97353.15. Drug Distribution Service—Equipment and Supplies.

(a) Each Outpatient Care Services Unit which provides drug distribution services shall maintain the equipment and supplies necessary to perform this service. These shall include but not be limited to the following:

(1) The Outpatient Care Services Unit shall maintain a separate portable and sealed supply of drugs for emergency use, which meets the following:

(A) The drugs included in the emergency drug supply shall be determined by the administrator and a licensed nurse. A pharmacist may also be included in determination of the emergency drug supply contents.

(B) The contents of the supply shall be listed on the outside of the container.

(C) The supply shall be checked and logged at least monthly to ensure appropriate replenishment of drug supply and to ensure that drugs are not outdated.

(2) Equipment and supplies used in drug repackaging, administering or dispensing shall be clean. Syringes, needles and related equipment shall be sterile. Equipment and supplies shall include:

(A) Refrigerator with a dependable thermometer.

(B) Lockable drug cabinets, drawers, closets or rooms.

(C) Drug preparation counter area and convenient water source.

(D) Syringes, needles, rubber tubing, clamps, droppers, medicine glasses or cups.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 5. Administration

§ 97354.1. Administrator.

(a) The Unit shall have a program administrator who shall have authority to carry out the day–to–day functions of the Outpatient Care Services Unit and shall have responsibility for ensuring that the Unit conforms to all applicable federal, state and local laws and regulations.

(b) The qualifications, authority and duties of the program administrator shall be defined in a job description approved by the Institute.

(c) The administrator shall devote sufficient time to administrative responsibilities to ensure the proper administration and management of the Outpatient Care Services Unit of the Institute.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97354.3. Posting of Outpatient Care Services Unit Schedule.

A schedule of the hours and days during which the Unit is open and the times during which the various medical services are offered shall be conspicuously posted in the Unit for public view and information. The Unit shall be open and services available during the posted times. Changes in such schedules shall be posted in advance of the change.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97354.5. Quality Assurance Evaluation Program.

The Outpatient Care Services Unit shall have a system for annual evaluation of its operation and the services it provides. This system shall include written procedures for evaluating the efficiency and effectiveness of the health services provided, and written procedures for the evaluation of utilization of services.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Subchapter 6. Day Health Care Services

Article 1. Definitions

§ 97361.1. Administrator.

Administrator or program director, means the program administrator, who has been appointed in writing, and who has responsibility for the operation of the Day Health Care Services Unit and for all patients receiving care in that Unit.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97361.3. Day Health Care Services Unit.

The Day Health Care Services Unit means that distinct part or area or areas of the Institute where day health care services are provided to patients.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97361.5. Director.

Director means the Director of the California State Department of Health Services.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 2. Designation

§ 97362.1. Designation.

A designated Institute shall not need a separate license for the provision of day health care.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312.3, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 3. Services

§ 97363.1. Basic Program Services—General.

(a) Each Day Health Care Services Unit shall provide the following basic services:

(1) Medical services.

(2) Nursing services.

(3) Planned recreational and social activities.

(b) Each Day Health Care Services Unit shall make the following services available to patients;

(1) Occupational therapy.

(A) The Unit may use the Institute occupational therapy program or may provide these services directly.

(B) If the Unit provides occupational therapy services directly to Unit patients it shall do so in accordance with the provisions of Sections 97321.117 through 97321.125.

(2) Physical therapy.

(A) The Unit may use the Institute physical therapy program or may provide these services directly.

(B) If the Unit provides physical therapy services directly to Unit patients it shall do so in accordance with the provisions of Sections 97321.107 through 97321.115.

(3) Speech therapy.

(A) The Unit may use the Institute speech therapy program or may provide these services directly.

(B) If the Unit provides speech therapy services directly to Unit patients it shall do so in accordance with the provisions of Sections 97321.127 through 97321.135.

(4) Psychiatric or psychological services.

(A) The Unit may use the Institute psychiatric or psychological services program or may provide these services directly.

(B) If the Unit provides psychiatric or psychological services directly to Unit patients it shall do so in accordance with the provisions of Sections 97321.147.

(5) Social work services.

(A) The Unit may use the Institute social work program or may provide these services directly.

(B) If the Unit provides social work services directly to Unit patients it shall do so in accordance with the provisions of Sections 97321.137 through 97321.145.

(c) Each patient shall be encouraged and assisted to achieve and maintain the highest level of self–care and independence.

(d) Each patient shall be treated as an individual with dignity and respect and shall not be subjected to verbal or physical abuse of any kind.

(e) Each employee shall observe each patient for any change in physical, mental, emotional and social functioning and shall report such changes to the licensed nurse who shall inform the case manager and attending physician.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97363.3. Basic Program Services—Nursing Services.

(a) Nursing care shall be available to each patient and shall include at least the following:

(1) Identification of care needs and development of an individual plan of care based on the treatment and management plan and on assessment of the patient's needs by the case manager and nursing staff. The care plan shall be reviewed each time the treatment and management plan is reviewed and shall be revised as necessary or indicated by the patient's condition.

(2) Administration of medications or monitoring of self–administration of medications by patients.

(3) Supervision of personal care given by program aides.

(4) Maintenance of a patient's Unit health record which includes:

(A) Signed quarterly progress notes from any outside consultants used.

(B) Records of medications and treatments administered.

(C) Quarterly narrative nursing note, unless a patient's condition requires a more frequent note, indicating the patient's progress toward achieving health goals.

(5) Provision of emergency care, including arrangements for transportation.

(6) Notification of the physician and case manager of any marked change in the patient's condition.

(b) A licensed nurse shall be on duty during the hours the Unit offers services.

(c) Nursing service space shall be provided for the treatment of patients.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97363.5. Nursing Services—Restraints.

(a) Restraints shall be used only as measures to protect the patient from injury to self, based on the assessment of the patient by the interdisciplinary team.

(b) Restraints shall be used only under the following conditions.

(1) Treatment restraints for the protection of the patient during treatment and diagnostic procedures.

(2) Supportive restraints for positioning the patient and to prevent the patient from falling out of a chair or from a treatment table or bed.

(c) Acceptable forms of restraints shall include only cloth vests, soft ties, soft cloth mittens, seat belts and trays with spring release devices. Soft ties means soft cloth which does not cause skin abrasion and which does not restrict blood circulation.

(d) Restraints shall not be used as punishment or as a substitute for medical and nursing care.

(e) No restraints with locking devices shall be used or available for use.

(f) Restraints shall be applied in a manner so that they can be speedily removed in case of fire or other emergency.

(g) Supportive restraints shall be fashioned or tied in a manner which permits the restrained patient to release the restraint without assistance.

(h) Various types of adult chairs referred to as geriatric chairs are not defined as a restraint if the type of closing mechanism of the chair and the physical and mental capability of the specific patient allow for easy removal.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97363.7. Nursing Services—Medications.

(a) Medications stored in the Unit or administered by Unit personnel shall be labeled in conformance with state and federal laws and regulations. Institute personnel shall not alter prescription labels.

(b) Institute personnel except those lawfully authorized to do so, shall not dispense, repackage or label drugs or transfer drugs between containers.

(c) No medication shall be administered to a patient by Unit personnel unless the name, dosage and frequency of administration of the drug and the name of the prescriber is recorded in that patient's Unit health record. "P.R.N." drug orders shall include an indication for use.

(d) Medications not self–administered shall be administered only by licensed medical or licensed drug personnel.

(e) The self–administration of medications shall be permitted only under the following conditions:

(1) The Unit shall have approved policies permitting self–administration of medications when approved by the attending physician.

(2) Training in self–administration of medications shall be provided to all patients based on the recommendation of the attending physician.

(3) The Unit health record of each patient who is capable of self–medication shall name all drugs that are to be self–administered.

(f) Medications shall be stored in the Institute under the following conditions:

(1) Medications shall be kept in clean, lockable cabinets, drawers or rooms. Such medications shall be accessible only to those licensed medical, nursing or pharmaceutical persons designated by the Institute.

(2) Medications shall be stored in an orderly manner without overcrowding. External use drugs in liquid tablet, capsule or powder form shall be stored separately from drugs for internal use.

(3) Test reagents, germicides, disinfectants and other household substances shall be stored separately from all drugs.

(4) Drugs shall not be stored after the expiration date on the label, and no contaminated or deteriorated drugs shall be available for use.

(5) The Unit shall keep a record of all prescription medications stored overnight. The record shall include the patient's name, the drug name and strength, the prescription number, if dispensed by a pharmacy and the date received. If the medication is returned to the patient, that shall be noted and dated on the record. The record shall be retained for at least one year.

(6) Medications requiring refrigeration shall be stored at a temperature between 2°C (36°F) and 8°C (46°F). If stored in the same refrigerator with foods, the drugs shall be in a closed container or compartment clearly marked "drugs" or "medication."

(g) Only disposable syringes and needles shall be used to administer drugs by injection. Such equipment shall be accessible only to licensed medical, nursing and pharmacy personnel and shall be destroyed so as to render it unfit for reuse in any manner.

(h) A Unit desiring to keep emergency drug supplies shall meet the following requirements:

(1) The drugs included in the emergency drug supply shall be determined by the pharmacist, the staff or attending physician and the registered nurse and shall be limited to minimum of three doses in either sealed ampules or vials of any one emergency drug. If an emergency drug is not available in parenteral form a supply of the drug in inhalation or sublingual form may be maintained in the smallest sealed manufacturer's package. No other oral legend drugs shall be stored.

(2) The emergency drug supply shall be stored in a portable container which is sealed in such a manner that the tamper–proof seal must be broken to gain access to the drugs. The registered nurse shall notify the pharmacist when drugs have been used from the emergency kit or when the seal has been broken. Drugs used from the kit shall be replaced within 72 hours and the supply resealed by the registered nurse.

(3) The contents of the supply shall be listed on the outside of the container.

(4) The supply shall be checked at least quarterly by the pharmacist.

(5) Separate records of use shall be maintained for drugs administered from the supply. Such records shall include the name and dose of the drug administered, name of the patient, the date and time of administration and signature of the person administering the dose.

(i) Drugs which have been left in the Unit by patients who have expired or have not visited the Unit for 30 days shall be destroyed in the Unit in the following manner:

(1) A registered nurse employed by the Unit and either another licensed nurse, the Institute administrator, a pharmacist or a physician shall witness the destruction.

(2) The method of destruction shall be recorded or indicated in the Institute's written procedures. Destruction shall be by flushing into the sewage system.

(3) Both witnesses required in (1) above shall sign a record which lists the date of destruction, the patient's name, the drug name and strength, the quantity destroyed and the prescription number, if any.

(j) There shall be written policies and procedures governing all aspects of medication storage, distribution, recording and disposal in the Institute.

(k) The Unit shall retain the services of a pharmacist who shall:

(1) Assist in the development and review of written policies and procedures.

(2) Monitor at least quarterly the implementation of policies and procedures related to medications at the Unit.

(3) Furnish to the Institute administrator at least quarterly a written report on the status of medication–related services.

(4) Communicate directly with patients, pharmacies, attending physician and Institute staff on matters pertaining to individual patient's drug therapy.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97363.9. Basic Services—Recreation or Planned Social Activities.

(a) The Day Health Care Services Unit shall provide an activity program that is supervised and directed by an activity coordinator to meet the needs and interests of each patient. The activity program shall assist

the patient to resume self–care and normal activities or to prevent further deterioration.

(b) An activity coordinator shall meet at least one of the following qualifications:

(1) Have two years of experience in a social, recreational or educational program within the past five years, one year of which was full–time employment in a patient activities program in a health care setting, mental health setting or setting for the care of the handicapped.

(2) Be an occupational therapist, art therapist, music therapist, dance therapist, recreation therapist, occupational therapy assistant or a qualified social worker.

(3) Have completed at least 36 hours of training in a course designed specifically for this position and approved by the Department and shall receive regular consultation from an occupational therapist, occupational therapy assistant, recreation therapist, art therapist, music therapist or dance therapist who has had one year of experience in a health care setting.

(c) The activity coordinator's duties shall include at least the following:

(1) Participation in initial and continuing assessment of the patient's needs for the development of the individual plan of care.

(2) Maintenance of a signed quarterly progress record and individualized activity plan in the patient's Unit health record.

(3) Posting of a schedule of planned activities in a central location readily accessible to patient, family, guardians or authorized representatives.

(4) Involvement of patients in the planning of the program.

(5) Utilization of volunteers as needed to implement the plan.

(6) Utilization of Day Health Care Services Unit's transportation to provide activities in the community as indicated by patient's needs and interests.

(d) Each patient shall have time to engage in activities of the patient's own choosing.

(e) The activity coordinator shall be a full–time employee of the Unit.

(f) Space shall be provided that:

(1) Meets independent and group needs of all patients.

(2) Is accessible to wheelchair and ambulatory patients.

(3) Allows storage of equipment and supplies.

(g) Equipment shall be sufficient to meet the group and independent needs of each patient.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97363.11. Optional Services.

(a) Optional services may be provided and may include:

(1) Podiatry services provided by a podiatrist.

(2) Optometric screening and advice provided for patients with vision problems by an ophthalmologist licensed by the California Board of Medical Quality Assurance or an optometrist licensed by the California Board of Optometry.

(3) Dental screening provided by a dentist.

(4) Other services as approved by the Department.

(b) Day Health Care Services Unit staff shall assist the patient by arranging for an appointment, transportation to and from the provider and escort services if needed. Optional services shall be provided by staff of other Institute Services Units whenever possible.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 4. Administration

§ 97364.1. Plan of Operation.

(a) Each Unit shall have a written plan of operation which shall be kept current.

(b) The plan shall include the following:

(1) Hours and days of operation.

(2) Number of patients to be served.

(3) Description of basic services and any optional services for which departmental approval is required.

(4) Policies and procedures for assessment of patients.

(5) Staffing pattern.

(6) A plan for utilizing community resources.

(7) Policies and procedures for in–service training of employees and volunteers.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97364.3. Employee Requirements.

(a) Employees shall be sufficient in numbers and qualified and competent to provide the services for which the Unit is designated. The Department may require the Unit to provide additional employees whenever the Department determines through documentation that the needs of the particular patients in the Unit, or the extent of the services provided by the Unit, or the peculiar physical arrangements of the Unit require such additional employees.

(b) Each supervisor shall be at least 18 years of age.

(c) Each employee shall have either training or related experience in the job assigned.

(d) A planned in–service education program, including orientation, skill training and continuing education shall be provided for employees.

(e) All staff members shall receive in–service training in first aid and in cardiopulmonary resuscitation within the first six months of employment.

(f) Each employee shall be in good mental and physical health, and capable of performing assigned tasks.

(g) No patient shall be used as a substitute for required employees, but may assist employees as part of the patient's program of rehabilitation or training.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97364.5. Administrator.

(a) The Unit shall have an administrator. The administrator shall have the responsibility and authority to carry out the policies of the designee. Notification to the Department shall be made upon the appointment of a new administrator and shall include the new administrator's name, the mailing address, the effective date of office, background, qualifications and Social Security number.

(b) An administrator shall have the following qualifications:

(1) Knowledge of supervision and care appropriate to the patients receiving services.

(2) Ability to conform to the applicable laws, rules and regulations.

(3) Ability to maintain or supervise the maintenance of financial and other records.

(4) Ability to direct the work of others.

(5) Be of good character and reputation of personal integrity.

(6) Graduation from an accredited college or university in a field related to the program and either of the following:

(A) A master's degree and one year of successful experience in a responsible managerial, administrative or supervisory position in a social or health service program or agency.

(B) A bachelor's degree and three years of successful experience in a responsible managerial, administrative or supervisory position in a social or health service program or agency.

(c) The administrator shall:

(1) Administer the Unit in accordance with this Sub–chapter and established policy, program and budget.

(2) Report to the Institute administrator concerning the operation of the Unit and interpret recognized standards of care and supervision to the Institute administrator.

(3) Develop an administrative plan and procedure to ensure clearly defined lines of responsibility, equitable workloads and adequate supervision.

(4) Recruit and train qualified employees in accordance with Institute policy.

(d) Each Unit shall make provision for continuity of operation and assumption of the administrator's responsibilities during the administrator's absence.

(e) Units with a capacity of 50 and over shall provide both an administrator and a full–time program director.

(f) The Unit administrator may serve as program director unless the Unit has a designated capacity of 50 or more.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97364.7. Program Director.

(a) Each Unit shall have a program director. The program director shall be on the premises and available to patients, employees and relatives. When the program director is temporarily absent, another adult on the staff shall be designated to serve as the acting program director. When the program director is absent for more than one month, the acting program director shall meet the qualifications of the program director.

(b) The program director shall be knowledgeable of the physical, mental and social needs of the elderly and be a professional in one of the following:

(1) Nursing.

(2) Social work.

(3) Psychology.

(4) Recreation.

(5) Occupational therapy.

(6) Physical therapy.

(7) Speech therapy.

(8) Dietetics.

(9) Gerontology.

(c) The duties of the program director shall be as follows:

(1) Developing the program in accordance with the needs of the patients served.

(2) Implementing and coordinating the program.

(3) Continuously evaluating the patient's changing needs and making necessary program adjustments.

(4) Supervising employees and volunteers.

(5) Providing for in–service education.

(d) The program director shall have no other duties than those related to day health care. During the hours when basic services are being provided in the Unit, the program director shall not be employed in any other capacity.

(f) The program director may serve as a professional person in any one of the basic program services if:

(1) The average daily attendance is 20 patients or less.

(2) The program director and administrator are not the same person.

(3) The program director meets the professional qualifications required to provide that service.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97364.9. Staffing Requirements.

(a) Program aides shall be employed in a sufficient number to meet the needs of the patients and the staffing requirements of the Department. Program aides shall be qualified by education and training and experience to perform the duties assigned and meet the needs of the program. A program aide shall be qualified when the aide can demonstrate to the program director the ability to successfully perform the tasks assigned.

(b) Appropriate professional employees and consultants qualified by education, training or experience shall be employed to meet the needs of the patients in the program and the staffing requirements of the Department.

(c) The staffing requirements shall be determined as follows:

(1) Units with an average daily attendance of 10 or less shall have a total of 40 hours in any combination of physical therapy, speech therapy, occupational therapy, or psychological or psychiatric services per month.

(2) Units with an average daily attendance of 11–20 shall have a total of 80 hours in any combination of physical therapy, speech therapy, occupational therapy, or psychological or psychiatric services per month.

(3) Units with an average daily attendance of 21–30 shall have a total of 120 hours in any combination of physical therapy, speech therapy, occupational therapy, or psychological or psychiatric services per month.

(4) Units with an average daily attendance of 31–40 shall have a total of 160 hours in any combination of physical therapy, speech therapy, occupational therapy, or psychological or psychiatric services per month.

(5) Units with an average daily attendance of 41–50 shall have a total of 200 hours in any combination of physical therapy, speech therapy, occupational therapy, or psychological or psychiatric services per month.

(6) Units with an average daily attendance of 51–60 shall have a total of 240 hours in any combination of physical therapy, speech therapy, occupational therapy, or psychological or psychiatric services per month.

(7) An additional half–time licensed vocational nurse for each increment of 10 in designated capacity exceeding 40.

(8) An additional half–time social work assistant for each increment of 10 in designated capacity exceeding 40.

(9) Program aides in a ratio of one–half aide for every increment of eight in licensed capacity.

(d) Support employees shall include maintenance, food service and clerical employees sufficient in number to perform the necessary duties.

(e) Volunteers may be utilized in Units but shall not be used to replace required employees. Each volunteer shall receive orientation, training and supervision.

(f) When regular employees are absent, there shall be coverage by employees with suitable qualifications.

(g) A dated weekly employee time schedule shall be displayed in a convenient place where employees may refer to it. The schedule shall contain employee's name, job title, hours of work and days off.

(h) The Unit shall provide and/or encourage each employee to report observations or evidence of abuse of patients.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Sec-

tion 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 5. Physical Plant

§ 97365.1. Space Requirements.

(a) Space shall be available to accommodate both indoor and outdoor activities and for storage of equipment and supplies.

(b) There shall be a multipurpose room large enough for all patients to get together for large group activities and meals if such grouping of patients is indicated by each patient's treatment and management plan.

(c) A secluded area shall be set aside for patients who require bed rest during the day. The secluded area shall have at least the following:

(1) Chaise lounges or beds in the number necessary to meet the needs of the patients.

(2) Rubber or plastic sheeting.

(d) Double–deck beds shall not be permitted.

(e) Space around sleeping accommodations shall permit easy passage.

(f) Separate space shall be provided for isolation of a patient whose illness requires temporary separation from others.

(g) Appropriate office or other space shall be provided for administrative and admission activities, for a reception area and for a telephone, desk and file cabinets.

(h) General and specialized storage space shall be maintained to meet the needs of patients and for efficient operation of the Unit. Storage shall not be permitted in air distribution chambers of heating, air conditioning or ventilating systems.

(i) Space for outdoor activities shall be easily accessible to ambulatory and nonambulatory patients and shall be protected from traffic.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97365.3. Supplies.

(a) Each Unit shall provide sufficient supplies for functional operation and for meeting the needs of the patients, including but not limited to:

(1) Soap for washing and bathing and toilet tissue.

(2) Supplies for maintenance of the Unit and for housekeeping.

(b) The Unit shall have a supply of clean linens of various kinds to meet the needs of patients.

(c) Office supplies necessary for efficient business management of the Unit shall be provided.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Subchapter 7. Social Day Care Services

Article 1. Definitions

§ 97370.1. Administrator.

Administrator means the program administrator, who has been appointed in writing, and who has responsibility for the operation of the Social Day Care Services Unit and for all patients receiving care in that Unit.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97370.3. Functional Impairment.

The state or condition of being impaired so that the capacity for independence is limited and the ability to perform or carry out activities of daily living (e.g., grooming, bathing, personal care) is severely impeded.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97370.5. Psychosocial Support Services.

Psychosocial support services means services performed by the Social Day Care Unit which is organized, staffed and equipped to provide supportive care to the patients in meeting their psychological and social needs.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97370.7. Social Day Care Services Unit.

The Social Day Care Services Unit means that distinct part or area or areas of the Institute where social day care services are provided to patients.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 2. Administration

§ 97372.1. Plan of Operation.

Each Social Day Care Services Unit shall have a written plan of operation which specifies the purpose and goals of the program; scope and quality of services to be provided to patients, their families and/or caregivers; operating policies; and lines of authority and responsibility.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97372.3. Hours of Operation.

Each Social Day Care Services Unit shall establish hours of operation consistent with its plan of operation and program purpose and goals. Hours of operation shall be posted in a conspicuous location.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97372.5. Program Administrator.

(a) The program administrator shall have the authority and responsibility necessary for the management and implementation of the Unit and shall assure compliance and conformity with this Sub–chapter and all local, state and federal regulations. The program administrator shall be a qualified professional with work experience and personal traits to ensure that activities and services are provided appropriately and in accordance

with patients' needs. The program administrator shall have a bachelor's degree in health or human services or a related field. Duties shall include supervision of or direct responsibility for the following:

(1) Planning the social day care program to meet individual needs as well as the collective needs of the patients, including intake process, liaison with community agencies, and provision of social services to the individual and family when necessary;

(2) Provision and coordination of all activities and services; maintenance of fiscal records and forms;

(3) Maintaining patients' records of attendance, progress, and attitude, plus pertinent social and medical information;

(4) Acquainting new patients, their families and/or caregivers with the Social Day Care Services Unit's services and activities and facilitating their adjustment to a new environment;

(5) Provision of initial orientation and ongoing educational programs for the social day care staff and other community agencies and groups;

(6) Training and utilization of volunteers with consideration of their individual talents and program activities to work effectively with the social day care program;

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97372.7. Staffing.

(a) Staff shall be adequate in number to comply with the required staffing ratio and to:

(1) Serve the functional level of social day care patients;

(2) Meet program objectives specified in the program's plan of operation;

(3) Assure health and safety of patients.

(b) At minimum, the following staff functions should be addressed:

(1) Administration and support services;

(2) Care and supervision of patients including personal care, psychosocial support services, general health monitoring, nutrition;

(3) Activities and program planning;

(4) General housekeeping/maintenance.

(c) Consultants may be utilized to provide services as needed in order to supplement professional staff and enhance the program's quality. Consulting services may be provided by contractual agreement with community groups or on an individual basis.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97372.9. Staff–Patient Ratio.

(a) The direct care staff–patient ratio shall be a minimum of one to eight.

(b) Full–time or full–time equivalent direct care staff shall be considered as those who spend 70 percent of their time in direct service with patients.

(c) There shall be at least two persons on duty at the Social Day Care Services Unit at all times when there are patients in attendance.

(d) Volunteers shall be included in the staff ratio only when they conform to the same standards and requirements as paid staff and meet the job description standards of Social Day Care Services Unit.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 3. Patient Services

§ 97373.1. Essential Services.

(a) The following services are essential to the provision of quality care and shall be addressed in the plan of operation:

(1) Care Plan. Services shall include identification of care needs and development of an individual plan of care based on the treatment and management plan and an assessment of the patient's needs by the case manager and Unit staff. The care plan shall be reviewed each time the treatment and management plan is reviewed or at least quarterly and shall be revised as necessary or indicated by the patient's condition.

(2) Personal Care. The staff of the Social Day Care Services Unit shall provide assistance when needed with activities of daily living (walking, eating, grooming, toileting) and supervision of personal hygiene.

(3) Social, Leisure, Physical and Education Activities. Planned individual and group activities, suited to the needs and abilities of the patients as determined in the patient's care plan.

(4) Health Education and Counseling.

(A) The Unit staff shall monitor the patient's general health status, with close observation for significant changes in his/her physical or mental condition. There shall be notification of such changes to the family, attending physician and case manager.

(B) Health education and counseling may be provided to patients and families and/or caregivers as indicated.

(C) Policies and procedures for self–administration of medications shall be developed and implemented.

(5) Emergency Services. In addition to the requirements of Article 4, of Sub–Chapter 2, each Social Day Care Services Unit shall provide for training for program staff and patients in emergency procedures, with at least one full–time staff member trained in first aid and cardiopulmonary resuscitation present in the center at all times.

(6) Psychosocial Support Services.

(A) Psychosocial support services should be available to each patient and should involve appropriate family members. This service should include the development of coping skills, such as adjustment, utilization of community and Institute resources, adaption, socialization and problem solving.

(B) Psychosocial support services may be provided on an individual and group basis according to the needs of patients, their families and/or caregivers.

(C) Group family support services are desirable.

(D) If staff is not sufficiently trained to handle intensive therapy, referral to counseling services shall be made as necessary.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97373.3. Activities.

(a) Social day care activities shall be designed to meet the patient's specific needs and interests, as determined by individual care plans and shall be consistent with the program' goals.

(1) Activities shall be planned by staff in coordination with patients, their families and/or caregivers, volunteers and other interested individuals and groups.

(2) The Social Day Care Services Unit shall assure safe and healthy conditions for activities in and outside the facility.

(3) The planning for and conducting of activities is an ongoing process and shall be reviewed, revised and evaluated as necessary.

(b) The Unit staff shall provide for a scope of activities to meet the patient's interrelated needs and interests (social, intellectual, cultural, economic, emotional and physical).

(c) All program activities shall be supervised by program staff.

(d) Patients shall have the choice of refusing to participate in any given activity.

(e) Time shall be allowed for rest and relaxation.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97373.5. Schedule.

(a) A monthly calendar of activities and menus shall be prepared and posted. These may be distributed to families and/or caregivers and others.

(b) Daily activities and services shall be posted in a visible location within the Social Day Care Services Unit.

(c) Patients shall have the opportunity to provide input in planning activities.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97373.7. Program Evaluation.

Each Social Day Care Services Unit shall have in writing a plan for internal evaluation of its operation and services. The plan shall include the timetable for initiating and completing the annual evaluation, the parties to be involved, the areas that will be addressed and the methods to be used in conducting the evaluation.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15)

Article 4. Designation

§ 97374.1. Designation.

A designated Institute shall not need a separate license for the provision of social day care services.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312.3, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Subchapter 8. Home Health Care Services

Article 1. Definitions

§ 97381.1. Administrator.

Administrator means the program administrator who has been appointed in writing, and who has responsibility for the operation of the Home Health Care Services Unit and for all patients receiving care through that Unit.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97381.3. Director.

Director means the Director of the State Department of Health Services.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97381.5. Home Health Aide.

Home health aide means a person who is certified as such by the Department.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97381.7. Home Health Care Services.

Home Health Care services means those health care and special support services provided in the home to serve the needs of patients and their families and/or caregivers.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97381.9. Home Health Care Services Unit.

The Home Health Care Services Unit means that distinct part of area or areas of the Institute where home health care services are supervised, planned, provided for or otherwise arranged to be provided to patients in a home setting.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97381.11. Part–Time or Intermittent Care.

Part–time or intermittent care means services provided for less than eight hours a day and less than a total of 40 hours a week.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 2. Designation

§ 97382.1. Designation.

A designated Institute shall not need a separate license for the provision of home health care services.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312.3, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 3. Services

§ 97383.1. Services Provided.

(a) The Unit shall provide part–time or intermittent nursing services in the home and make available in the home at least one other service such a physical therapy, speech therapy, occupational therapy, social services or home health aide services.

(b) The Unit may provide, but is not limited to, the following: diet counseling, medical supplies and medical appliances.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97383.3. Treatment and Rehabilitative Services.

(a) Treatment, rehabilitative and maintenance services may be provided for patients.

(b) The character and scope of advice, treatment and appliances provided by the Unit shall be consistent with accepted standards of practice for the discipline involved.

(c) The professional personnel of the Unit shall check that equipment, apparatus or appliances supplied by the Unit for a service or furnished to a patient in the course of their treatment, are in good working order at the time of the visit.

(d) Each type of service provided by the Unit for patients shall be approved by the Department and as a minimum shall:

(1) Be under the direction of a person registered, licensed or certified to provide such service if registration, licensure or certification is required, or be otherwise qualified as provided in these requirements.

(2) Have written policies and procedures and reference material readily available to guide and assist unit staff and other Institute personnel.

(e) Services that shall be provided are:

(1) Home Health Aide Services.

(2) Nursing Services.

(3) Social Services.

(4) Medical Supplies and Appliances.

(f) The Unit may make the following services available to patients.

(1) Diet counseling.

(2) Occupational therapy.

(3) Physical therapy.

(4) Speech therapy.

(g) Personnel shall be available to render rehabilitative treatment or other services prescribed for patients accepted for care by the Unit.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97383.5. Patient's Care Plan.

(a) A care plan based on the treatment and management plan and an assessment of the patient's needs by the case manager and Unit staff shall be established for every patient accepted for care and incorporated in the patient's Unit health record.

(b) The written plan shall be approved and signed within 20 working days by the attending physician and case manager.

(1) The care plan shall be reviewed each time the treatment and management plan is reviewed and shall be revised as necessary.

(c) The plan of treatment developed in consultation with the Unit staff shall cover pertinent information, including:

(1) Diagnoses.

(2) Types of services and equipment required.

(3) Statement of treatment goals.

(4) Medications and treatments.

(5) Functional limitations.

(6) Mental status.

(7) Activities permitted.

(8) Nutritional requirements.

(9) Rehabilitation potential.

(10) Any safety measures to protect against injury.

(11) Any other appropriate items.

(12) Frequency of visits.

(13) Instructions to patient and family.

(d) The professional person responsible for any specific treatment shall notify the attending physician, case manager and responsible Unit staff of significant changes in the patient's condition.

(e) All care and treatment plans and notifications to the attending physician and/or case manager shall be made a part of the patient's Unit health record.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97383.7. Orders for Medication and Treatment.

(a) No medication or treatment shall be given except on signed order of a person lawfully authorized to give such order. Such order may be given by telephone and shall be signed by the patient's attending physician, within 20 working days.

(b) All initial orders and subsequent changes in orders for the administration of drugs shall be signed by a person lawfully authorized to give such order, and incorporated in the patient's Unit health record maintained by the Unit.

(c) All other changes in orders shall be signed by the attending physician. All telephone orders shall be received only by a licensed nurse and any other person lawfully authorized to receive such orders as appropriate to their specialty areas. Therefore, orders shall be recorded immediately in the patient's Unit health record and shall be countersigned by the attending physician.

(d) Orders for therapy services shall include the specific procedures to be used and the frequency and duration. Orders accepted from a dentist or podiatrist may only be within that scope of practice allowed by the licensure of the particular discipline involved.

(e) All orders shall be reviewed by the attending physician and case manager at least every 60 days.

(f) Medications and treatments shall be administered as prescribed and shall be recorded in a patient's Unit health record as administered.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97383.9. Unit Nursing Supervisor.

(a) Nursing and other therapeutic services provided by an Institute shall be under the direction of a Unit Nursing Supervisor. The Unit Nursing Supervisor shall be employed 40 hours per week.

(b) In the temporary absence (in excess of 20 consecutive working days) of the Unit Nursing Supervisor, a registered nurse shall be designated in writing as responsible for fulfilling the duties of the Unit Nursing Supervisor with immediate notification to the Department.

(c) Any vacancy in the Unit Nursing Supervisor's position shall be filled within 60 days.

(d) The qualification of the Unit Nursing Supervisor shall be as follows:

(1) A registered nurse with a master's degree in nursing administration or supervision from a program accredited by the National League for Nursing or a master's degree in public health administration accredited by the American Public Health Association, with at least two years of supervision or administrative experience in a community health service, home health agency or its equivalent in the past five years, or

(2) A registered nurse with a baccalaureate degree in nursing from a program accredited by the National League for Nursing and three years of nursing experience in a community health service in the past six years, with progressively responsible experience in supervisory or administrative duties.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97383.11. Nursing Services Staff.

(a) There shall be at least one full–time registered nurse supervisor for no more than 12 full–time or full–time equivalent nurses. The nurse supervisor shall have a baccalaureate degree in nursing from a program accredited by the National League for Nursing and two year's experience in a community health service, home health agency or its equivalent in the past five years.

(b) Registered nurses shall have a minimum of one year of experience as a professional nurse; or have a public health nursing certificate; or have a baccalaureate degree in nursing from a program accredited by the National League of Nursing.

(c) Licensed vocational nurses shall have at least one year experience as a licensed vocational nurse and shall work under the supervision of a registered nurse.

NOTE: Authority cited: Section 1311.5 and 1312.7 Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97383.13. Nursing Services.

(a) Nursing services shall be provided by or under the direction of a registered nurse according to the plan of treatment. Registered nursing personnel shall perform, but not be limited to the following:

(1) Make the initial nursing evaluation visit.

(2) Reevaluate the patient's nursing needs as required.

(3) Initiate the plan of treatment and necessary revisions.

(4) Provide those services requiring substantial specialized nursing skill.

(5) Assign, supervise and teach other nursing personnel.

(6) Initiate appropriate preventive and rehabilitative nursing procedures.

(7) Assist in coordinating all services provided.

(8) Inform the physician and other personnel of changes in the patient's condition and needs.

(9) Counsel and instruct the patient and family in meeting nursing and related needs.

(10) Prepare clinical and progress notes.

(11) Participate in in–service training programs.

(b) Licensed vocational nursing personnel shall perform but not be limited to the following:

(1) Observe, record and report to the immediate supervisor and case manager on the general physical and mental condition of the patient.

(2) Administer prescribed medications and treatments as permitted by law.

NOTE: Authority cited: Section 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).
2. Editorial correction of subsection (a)(7) (Register 95, No. 44).

§ 97383.15. Home Health Aide Services.

(a) When a Unit provide or arranges for home health aide services, the services shall be given in accordance with the plan of treatment and shall be supervised by a registered nurse. When an aide is assigned to assist in the provision of therapeutic services other than nursing, supervision may be given by a physical or occupational therapist, speech pathologist, dietitian or social worker as appropriate.

(b) Duties of the home health aides shall include:

(1) Assisting patients with bath, care of mouth, skin, hair.

(2) Assisting patients in and out of bed and assisting with ambulation.

(3) Assisting with prescribed exercises which patients and home health aides have been taught by appropriate health personnel.

(4) Preparing of meals and assisting patients with eating.

(5) Assisting patients to bathroom or in using bedpan.

(6) Performing household services which will facilitate the patient's self–care at home and are necessary to prevent or postpone institutionalization.

(7) Assisting with medications that are ordinarily self–administered.

(8) Reporting changes in the patient's conditions and needs to the supervising nurse, case manager and attending physician, as appropriate.

(9) Completing appropriate records.

(c) Supervision shall be provided by a registered nurse. There shall be at least one full–time or full–time equivalent registered nurse for no more than 10 full–time or full–time equivalent home health aides. The supervising nurse shall:

(1) Assign home health aides to a particular case in accordance with the plan of treatment.

(2) Provide written instructions for patient care.

(3) Provide direct supervision to the home health aide in the patient's home as necessary but not less often than once every two weeks and be readily available at other times by telephone.

(d) Registered nurses providing supervision to aides may also provide direct services to the same or other patients.

NOTE: Authority cited: Section 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97383.17. Therapy Services.

(a) Physical Therapy Services

(1) The Unit may use the Institute physical therapy program or may provide such services directly.

(2) If the Unit provides such services directly it shall do so in accordance with the provisions of Section 97321.107 through 97321.115.

(b) Occupational Therapy Services

(1) The Unit may use the Institute occupational therapy program or may provide such services directly.

(2) If the Unit provides such services directly is shall do so in accordance with the provisions of Section 97321.117 through 97321.125.

(c) Speech Therapy Services.

(1) The Unit may use the Institute speech therapy program or may provide such services directly.

(2) If the Unit provides such services directly it shall do so in accordance with the provisions of Sections 97321.127 through 97321.135.

(d) Social Services.

(1) The Unit may use the Institute social program or may provide such services directly.

(2) If the Unit provides such services directly it shall do so in accordance with the provisions of Sections 97321.137 through 97321.145.

NOTE: Authority cited: Section 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97383.19. Diet Counseling Services.

(a) The Unit shall provide or arrange for diet counseling services for each patient. These services shall be given in accordance with the treatment and management plan and by or under the supervision of the Institute dietitian.

(b) Diet counseling personnel duties include:

(1) Assisting the patient and family to understand, accept and follow dietary modifications ordered by the physician.

(2) Observing, recording and reporting to the physician, the case manager and the nurse supervisor the patient's reaction to dietary treatment and any related changes in the patient's condition.

(3) Instructing, supervising or counseling other members of the health care team including, when appropriate, home health aides and family members regarding the dietary care of the patient.

(4) Participating in in–service education program.

NOTE: Authority cited: Section 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 4. Administration

§ 97384.1. Administrator.

(a) The Institute shall appoint a qualified administrator of the Unit who:

(1) May also be a supervising physician or Unit Nursing Supervisor.

(2) May be a physician or a registered nurse but if the person is neither, he or she shall have:

(A) A minimum of one year of supervisory or administrative experience in home health care or related health care services and be qualified in one of the health professions; or

(B) Preparation and experience in health services administration.

(b) The program administrator shall:

(1) Organize and direct the Unit functions.

(2) Ensure the accuracy of public information materials and activities.

(3) Provide procedures and a system of staff communication that ensures coordinated implementation of plans of treatment and the utilization of necessary services for comprehensive care of patients.

(4) Have an adequate number of qualified personnel to carry out the functions of the Home Health Care Services Unit, provide for initial orientation of all new employees, a continuous in–service training program, and competent supervision designed to improve patient care and employee efficiency.

(c) The program administrator or qualified alternate shall be available at all times during the hours of operation.

(d) The Unit Nursing Supervisor or a physician shall direct all patient care services provided by the Home Health Care Services Unit. This person or a qualified alternate shall be available at all times during hours of operation.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–98 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97384.3. Written Administrative Policies.

(a) Written administrative policies shall be developed and shall be reviewed at least annually and if indicated, revised. These policies shall be made available to patients or their agents upon request.

(b) These policies shall include but not be limited to:

(1) Services provided.

(2) A policy that patients shall be provided home health care services on the basis of a reasonable expectation that the patient's needs can be met by the Unit in the patient's place of residence. Such reasonable expectation shall be based on an assessment of at least the following factors:

(A) Adequacy and suitability of agency personnel and resources to provide the services required by the patient.

(B) Attitudes of the patient and their family toward the patient's care at home.

(C) A plan to meet medical emergencies.

(D) Physical facilities in the patient's residence being adequate for proper care.

(E) Availability of family or caretaker able and willing to participate in the patient's care, as appropriate.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97384.5. Program Evaluation.

(a) The Unit shall have written policies requiring an overall evaluation of the Unit's total program at least once a year by one of the following:

(1) A committee of Unit staff and consumers.

(2) Professional people outside the Institute working in conjunction with consumers.

(b) The evaluation shall consist of an overall policy and administrative review to assure that Institute policies are being followed. The committee's evaluation shall assess the extent to which the Unit's program is:

(1) Being appropriately used.

(2) Demonstrating its effectiveness by assessing the degree that established objectives are met.

(3) Organized and operated efficiently.

(c) The committee shall maintain written records of all meetings which shall contain issues discussed and decisions reached and which shall be subject to review by the Department. Results of the evaluation are reported to those responsible for the operation of the Unit.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97384.7. Utilization Review.

(a) A utilization review plan shall be established by the Unit.

(b) The utilization review committee shall consist of health professionals representing each of the services provided by the Unit. At least one member should be from outside the Unit.

(c) This committee shall meet at least quarterly to review active and inactive patients' health records. The committee shall determine that:

(1) Professional and patient care policies are followed in providing services.

(2) Services are being appropriately used.

(3) Needs of patients serviced are being met both quantitatively and qualitatively.

(4) There is a continuous review of active health records for each 60–day period a patient receives home health services. This review of specific individual patients shall consider:

(A) Appropriateness of continuation of care.

(B) Adequacy of plan of treatment.

(d) The committee may perform retrospective review. This may consist of studies of discharged patients for the purpose of identifying patterns of care which could result in recommendations for improvement of patient care.

(e) Minutes shall be kept of all such reviews and contain issues discussed and decisions reached. These minutes shall identify the method of case selection and together with all patient records shall be available for examination by the Department.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 5. Qualifications for Home Health Aide Certification

§ 97385.1. Home Health Aide Certification.

(a) Home health aides shall be certified by the Department. To qualify for certification the following shall be met:

(1) Completion of a Department approved training program as outlined in Section 97385.3 or its equivalent.

(2) Submission by the Home Health Care Services Unit to the Department of satisfactory evidence of completion of an equivalent home health aide training program on forms furnished by the Department. The Department may certify the home health aide as meeting the equivalent training requirement and shall maintain records on the aides certified through this method.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97385.3. Home Health Aide Training.

(a) The basic training program for certification shall be a minimum of 120 hours and consist of at least the following:

(1) Introduction (4 hours).

(A) Definition, functions and responsibilities of a home health aide as a member of the health service team in a Unit.

(B) Interpretation of the importance of understanding the employing Institute's policies, including:

1. Employment practices.
2. Nursing policies and procedures.
3. Supervision.
4. Ethics and confidentiality.

(2) Interpretation of medical and social needs of people being served (20 hours).

(A) Basic simple description in any terms of disease and its effects on the individual and the family.

(B) Personal adjustment of the individual and his family to illness and disability.

(3) Personal care services (70 hours). Personal care services include those supportive services which are required to help provide and maintain normal bodily and emotional comfort and to assist the patient toward independent living in a safe environment including at least:

(A) Assisting patients with personal hygiene.

(B) Assisting patient in self-care activities:

1. Bathing—tub, shower, bed.
2. Dressing and undressing.
3. Feeding

(C) Assisting with mobility.

1. Getting in and out of bed, chair, wheelchair, toilet.
2. Walking with or without devices.
3. Assisting with exercises as ordered.
4. Positioning.

(4) Cleaning and care tasks in the home (10 hours) which includes at least:

(A) Home safety measures.

(B) Economical cleaning materials and method of use.

(C) Maintenance of cleanliness where dishes and food are stored.

(D) Principles of general cleanliness of environment.

(E) Handling of laundry.

(5) Nutrition (16 hours) which includes at least:

(A) Basic principles of diet.

(B) Meal planning and serving.

(C) Food purchasing.

(D) Food preparation, sanitation and storage.

(b) There shall be a minimum of 20 hours of clinical experience of which 15 hours are in personal services, 2 hours are in cleaning and care tasks and 3 hours are in nutrition.

(c) There shall be no more than 75 hours of classroom lecture.

(d) Training in personal care services shall be given by a registered nurse, preferably a public health nurse. Nutritionists, physical therapists, social workers and other health personnel may be involved in appropriate aspects of the training program.

(e) Personal care services training may be given at the Skilled Nursing Services Unit or Intermediate Care Services Unit, or both, but the emphasis of the program must be on home care.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97385.5. Issuance, Denial, Revocation or Suspension of Home Health Aide Certificate.

(a) The Department shall issue a home health aide certificate to all persons who submit evidence of satisfactory qualifications as determined by the Department.

(b) Notwithstanding the above, a home health aide certificate may be denied, revoked or suspended on any of the following grounds:

(1) Failure to submit an application which sets forth information as the Department may deem necessary.

(2) Conviction of a felony, or any crime which evidences an unfitness to provide home health services, unless such person presents evidence satisfactory to the Department that such person has been rehabilitated and presently is of such good character as to justify the issuance or continuance of the home health aide certificate.

(3) Failure to submit evidence of satisfactory qualifications.

(c) If the certificate is denied, the Department shall notify the applicant in writing. Within 20 days of receipt of the Department's notice, the applicant may present his written petition for a hearing to the Department. The Department shall set the matter for hearing within 30 days after receipt of the petition in proper form. The proceedings shall be conducted in accordance with Chapter 5 of Part I of Division 3 of Title 2 of the Government Code beginning with Section 11500.

(d) If a certificate is considered for revocation or suspension, the Department shall proceed in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code beginning with Section 11500.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Subchapter 9. In–Home Supportive Services

Article 1. Definition

§ 97390.1. Program Definition.

The In–Home Supportive Services Unit provides assistance to those patients who are unable to remain safely in their own homes without assistance.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97390.3. In–Home Supportive Services Unit.

The In–Home Supportive Services Unit means that distinct part or area or areas of the Institute where in–home supportive services are supervised, planned, provided for or otherwise arranged to be provided to patients, their families and/or caregivers in a home setting.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 2. Designation.

§ 97391.1. Designation.

A designated Institute shall not need a separate license for the provision of in–home supportive services.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 3. Services

§ 97392.1. Individual Plan of Care.

(a) The program administrator shall ensure that an individual plan of care is developed for each patient based on the treatment and management plan and an assessment of the patient's needs by the case manager and Unit staff.

(b) The care plan shall be reviewed each time the treatment and management plan is reviewed and shall be revised as necessary as indicated by the patient's condition.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97392.3. Domestic Services.

Domestic services to be provided shall include but not be limited to:

(a) Sweeping, vacuuming, washing and waxing of floor surfaces.

(b) Washing kitchen counters and sinks.

(c) Cleaning the bathroom.

(d) Storing food and supplies.

(e) Taking out garbage.

(f) Dusting and picking up.

(g) Cleaning oven and stove.

(h) Cleaning and defrosting refrigerator.

(i) Bringing in fuel for heating or cooking purposes from a fuel bin in the yard.

(j) Changing bed linen.

(k) Snow removal, when appropriate.

(l) Removal of substances or grass or weeds when necessary to permit access to the patient.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97392.5. Related Services.

Related services to be provided shall include but not be limited to:

(a) Preparation and serving of meals.

(b) Meal clean–up, including washing and drying dishes, pots, utensils and culinary appliances and putting them away.

(c) Planning of menus.

(d) Laundry services including the tasks of washing and drying laundry, mending, sewing, folding and storing clothes on shelves or in drawers.

(e) Reasonable food shopping and other shopping/errands limited to the nearest available stores or other facilities consistent with the patient's needs.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97392.7. Non–Medical Personal Services.

Non–medical personal services shall include:

(a) Bowel and bladder care, such as assistance with enemas, emptying of catheter or ostomy bags, assistance with bed pans, application of diapers, changing rubber sheets and assistance with getting on and off commode or toilet.

(b) Respiration limited to nonmedical services such as assistance with self–administration of oxygen and cleaning IPPB machines.

(c) Consumption of food consisting of feeding or related assistance to patients who cannot feed themselves or who require assistance with special devices in order to feed themselves.

(d) Routine bed baths.

(e) Bathing, oral hygiene and grooming.

(f) Dressing.

(g) Rubbing of skin to promote circulation, turning in bed and other types of repositioning, assistance on and off seats and wheel chairs, or into and out of vehicles.

(h) Moving patient into and out of bed.

(i) Care of and assistance with prosthetic devices.

(j) Routine menstrual care, limited to application of sanitary napkins and external cleaning.

(k) Ambulation, consisting of assisting the patient with walking or moving the patient from place to place.

(l) Transportation of the patient to and from appointments with physicians, dentists and other health practitioners.

(m) Transportation of the patient which is necessary for fitting health related appliances/devices and special clothing.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Sec-

tion 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97392.9. Health Care Services.

Health Care Services shall be provided under the following conditions:

(a) The services shall have the following characteristics:

(1) The activities are activities which patients would normally perform for themselves but for their functional limitations.

(2) The activities are activities which, due to the patient's physical or mental condition, are necessary to maintain the patient's health.

(b) The services shall be provided when ordered by a licensed health care professional who is lawfully authorized to do so.

(c) The services shall be provided under the direction of the licensed health care professional.

(d) The services shall be provided by trained staff from the Unit.

(e) The Unit shall have received a signed and dated order for the health care services from a licensed health care professional.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97392.11. Protective Supervision.

Protective supervision shall consist of observing patient behavior in order to safeguard the patient against injury, hazard or accident.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97392.13. Teaching and Demonstration Services.

Teaching and demonstration services shall be provided to enable patients to perform for themselves services which would otherwise have to be provided through the In–Home Supportive Services Unit staff.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 4. Staff

§ 97394.1. Staff.

(a) The Unit shall have sufficient staff to meet the needs of the patients as described in their treatment and management plans and Unit patient care plans.

(b) The Department may require the In–Home Supportive Services Unit to provide additional staff whenever the Department determines through a written evaluation of patients and patient care received through the Unit that such additional staff are needed to provide adequate care, assistance and/or supervision or to provide for the safety of the patients.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 5. Administration

§ 97395.1. Administrator.

Administrator means the program administrator who has been appointed in writing, and who has responsibility for the operation of the In–Home Supportive Services Unit and for all patients receiving services through that Unit.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97395.3. Program Evaluation.

Each In–Home Supportive Services Unit shall have in writing a plan for internal evaluation of its operation and services. The plan shall include the timetable for initiating and completing the annual evaluation, the parties to be involved, the areas that will be addressed and the methods to be used in conducting the evaluation.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Subchapter 10. Respite Care Services

Article 1. Definitions

§ 97401.1. Administrator.

Administrator means the program administrator who has been appointed in writing, and who has responsibility for the operation of the Respite Care Services Unit and all patients receiving services through that Unit.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section file 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97401.3. Respite Care.

Respite care means inpatient care, outpatient care, home health care, in–home supportive services, and/or supervision provided on an intermittent or regularly scheduled basis to the patient to relieve the family and/or caregivers from demands of home care and/or supervision for a period of time.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97401.5. Respite Care Services Unit.

Respite Care Services Unit means that distinct part or area or areas of the Institute where respite care services are supervised, planned, provided for or otherwise arranged to be provided to patients, their families and/or caregivers.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Sec-

tion 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 2. Training

§ 97402.1. Training.

(a) All individuals involved in providing respite care to families and/or caregivers of patients with Alzheimer's disease shall have been trained in the appropriate types of services.

(b) In addition, all such individuals shall receive orientation to Alzheimer's disease and related dementias, problems of dealing with patients and emergency procedures such as first aid and CPR.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 3. Administration

§ 97403.1. Administrator.

(a) The Unit shall have an administrator who shall have the responsibility and authority to administer and manage the Unit according to the policies of the Institute.

(b) The administrator shall be a graduate from an accredited college or university and have had administrative or professional experience in a social or health service program or agency.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97403.3. Staff.

(a) Unit employees shall be sufficient in numbers and qualified and competent to provide the services for which the Unit is designated. The Department may require the Unit to provide additional employees whenever the Department determines through documentation that the needs of the patients in the Unit, or the extent of the services provided by the Unit require such additional employees.

(b) Each employee shall have either training or related experience in the job assigned.

(c) No patient shall be used as a substitute for required employees.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 4. Services

§ 97404.1. Required Services.

(a) The Unit shall provide or arrange for respite care to all patients in accordance with their treatment and management plan.

(b) Patients shall receive services from one of the following:

(1) At the appropriate services unit of the Institute.

(2) If the appropriate type of services is not provided by the Institute but by a contract provider, at the site where the services are provided.

(3) In their homes, in which case services will be provided by the Home Health Care Services Unit or by the In-Home Supportive Services Unit or by the Respite Care Services Unit staff or by a contract provider.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97404.3. Respite Care Plan.

The Respite Care Plan shall be developed for each patient by the case manager and Unit staff in accord with the treatment and management plan. It shall be reviewed each time the treatment and management plan is reviewed and shall be revised as necessary or indicated by the patient's condition.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97404.5. Type of Care.

The Unit shall ensure that the type of services needed by the patient as determined by the treatment and management plan, patient's care plan and an assessment of the home situation by a personal visit by a Unit staff member, are provided.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97404.7. Coordination.

The Unit will coordinate with all other services units in the Institute in the provision of respite care to the patient, family and/or caregiver. Whenever possible, services should be provided by Institute staff.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97404.9. Standards for Services Provided.

All services provided by the Respite Care Services Unit shall be provided as required in the appropriate section of Subchapter 2 of this Chapter or the appropriate Subchapter of this Chapter.

NOTE: Authority cited: Section 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 5. Designation

§ 97405.1. Designation.

A designated Institute shall not need a separate license for the provision of respite care.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97405.3. Program Evaluation.

Each Respite Care Services Unit shall have a written plan for internal evaluation of its operation and services. The plan shall include the timeta-

ble for initiating and completing the annual evaluation, the parties to be involved, the areas that will be addressed and the methods to be used in conducting the evaluation.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312.3, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Subchapter 11. Hospice Care Services

Article 1. Definitions

§ 97411.1. Administrator.

Administrator means the program administrator, who has been appointed in writing and who has responsibility for the operation of the Hospice Care Services Unit and for all patients receiving hospice care services on an inpatient and outpatient at–home basis.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97411.3. Bereavement Counseling.

Bereavement counseling means counseling services provided to the patient's family after the patient's death.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97411.5. Hospice Care.

Hospice care means a combination of inpatient and home care programs provided to terminally ill patients to maximize the comfort of the patient and optimize the quality of life for patients and families.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97411.7. Hospice Care Services Unit.

Hospice Care Services Unit means that distinct part or area or areas of the Institute where hospice care is provided to inpatients and where hospice care is supervised, planned, provided for or otherwise arranged to be provided to patients in a home setting.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97411.9. Representative.

Representative means a person who is, because of the individual's mental or physical incapacity, authorized in accordance with State law to execute or revoke an election for hospice care or terminate medical care on behalf of the terminally ill individual.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97411.11. Terminally Ill.

Terminally ill means that the individual has a medical prognosis that his or her life expectancy is 6 months or less.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 2. Required Services

§ 97412.1. Required Services.

(a) The Hospice Care Services Unit shall provide, but shall not be limited to, the following services: physician, nursing, dietary, pharmaceutical, psychological, social work, spiritual counseling and bereavement counseling.

(b) Services provided to the patient will be based on identification of care needs and development of an individual plan of care based on the patient's treatment and management plan and assessment of the patient's needs by the case manager and Unit staff.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97412.3. Physician Services—Supervision of Care.

(a) Each patient assigned to the Hospice Care Services Unit shall be under the continuing supervision of an attending physician who evaluates the patient as needed but not less than every 30 days unless there is an alternate schedule. The attending physician is also responsible for documenting the visits in the patient's health record.

(b) The attending physician shall be, on the basis of training, experience and interest, knowledgeable about the psychosocial and medical aspects of hospice care.

(c) The attending physician shall consult on a regular basis with the Institute pharmacist regarding pain and symptom management.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97412.5. Nursing Services.

(a) Nursing services shall include identification of nursing care needs within the patient's care plan.

(b) Nursing staff will make a visit to the patient's home and consult with the patient, family and/or caregiver during the formulation of the patient's care plan.

(c) The patient's care plan shall be reviewed each time the treatment and management plan is reviewed and shall be revised as necessary or indicated by the patient's condition.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97412.7. Hospice Home Care Services.

(a) Hospice home care services shall be available 24 hours a day, 7 days a week and shall include but not be limited to the following:

(1) At least one registered nurse will be available 24 hours a day, 7 days a week to provide nursing services to patients at home. There will be sufficient staff employed in the Unit to meet the needs of Unit patients in their home.

(2) Medications for patients and services that meet the home care needs of patients, families and/or caregivers shall be available 24 hours a day, 7 days a week, in accordance with the treatment and management plan and the patient's care plan.

(b) Homemaker and home health aides from the Hospice Care Services Unit, or the Home Health Services Unit, or the In-Home Supportive Services Unit, shall be available to meet the needs of patients, families and/or caregivers.

(1) The home care services shall be supervised by a registered nurse.

(2) All home care services in the Unit shall be provided by staff who have had education and training relevant to Alzheimer's disease and the terminal patient, and the needs of the family and/or caregiver.

(c) The Unit shall have written policies and procedures to guide the provision of home care services in the delivery of hospice care and shall address at least the following:

(1) The administration of treatment modalities, including intravenous procedures, chemotherapy, parenteral feedings and injections.

(2) Documentation in the patient's Unit health record of medications administered and any medication errors, adverse drug reactions and corrective actions.

(3) The identification of who is to be trained to administer medications in the home care setting with documented evidence of such training.

(4) If the Unit provides controlled drugs to patients in their home, written policies and procedures to govern the disposal of drugs in accordance with applicable laws and regulations.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97412.9. Inpatient Services—Policies and Procedures.

(a) There shall be written policies and procedures to guide the provision of services t inpatients in the Unit which shall address but not be limited to the following:

(1) The administration of treatment modalities, including intravenous procedures, chemotherapy, parenteral feedings and injections.

(2) There shall be sufficient nursing staff employed in the Unit to meet the needs of the patients.

(3) The Department may require additional nursing staff to be employed if it determines on the basis of a written evaluation and review of the patient's needs, that such additional staff is necessary.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

Article 3. Staff

§ 97413.1. Hospice Treatment Team.

(a) The Hospice Care Services Unit shall have a hospice treatment team which shall be composed of at least one representative from each of the following staff disciplines:

(1) Physician.

(2) Psychologist.

(3) Social worker.

(4) Registered nurse.

(b) The hospice treatment team may have one or more individuals who are also members of an interdisciplinary team of the Institute, but all members of the hospice treatment team must have specialized training in the provision of services to terminally ill patients, their families and/or caregivers.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97413.3. Hospice Treatment Team Services.

(a) Hospice treatment team services shall be available to Unit patients, families and/or caregivers in the home and in the inpatient setting and shall include:

(1) Physician services.

(2) Nursing services.

(3) Psychological/social work services.

(4) Spiritual services.

(5) Bereavement services, and

(6) Those services deemed necessary for patient/family care.

(b) Services provided by the hospice treatment team shall be coordinated by the case manager to assure ongoing assessment of the patient's/family's needs and implementation of the patient's care plan developed by the hospice treatment team in accord with the treatment and management plan.

(c) Volunteers may be used in providing hospice treatment team services.

(d) Each member of the hospice treatment team shall have a current license or certification in their respective profession.

(e) The Institute shall provide hospice treatment team members with access to individual and group support concerning issues relating to the stress of caring for terminally ill patients.

(f) Members of each hospice treatment team shall have access to in-service and continuing education programs appropriate to their responsibilities and to the maintenance of skills necessary for the physical care of the patient and the psychosocial care of the patient/family.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97413.5. Medical Director.

(a) The hospice care unit shall have a medical director who shall be a licensed physician and who, on the basis of training, experience, and interest, has knowledge about the psychosocial and medical aspects of hospice care.

(b) The duties and responsibilities of the medical director shall include:

(A) Consulting with attending physicians, as requested, regarding pain and symptom management.

(B) Reviewing patient medical eligibility for hospice services in accordance with Hospice Care Services Unit policy.

(C) Acting as a medical resource to the hospice treatment team.

(D) Coordinating efforts with the attending physician to provide medical care in the event the attending physician is unable to retain responsibility for patient care.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4-6-87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7-1-90 (Register 87, No. 15).

§ 97413.7. Nursing Services.

(a) Unit nursing services shall be supervised by a qualified registered nurse who has:

(1) Education and experience appropriate to the nursing care needs of hospice patients and their families (a bachelor's degree in nursing or higher degree, is preferred), and

(2) Demonstrated ability in nursing practice and administration.

(b) The nursing services supervisor shall designate a qualified registered nurse to act in the absence of the supervisor.

(c) There shall be written policies and procedures which:

(1) Define the scope of nursing care provided to patients/families.

(2) State the minimum education and experience required for individuals who provide nursing services, and

(3) Are reviewed and revised as necessary, in accordance with Unit policy.

(4) State that the provision of nursing care shall be documented in the patient's Unit health record.

(d) A sufficient number of qualified registered nurses shall be on duty at all times to provide hospice patients with nursing care.

(e) Specific nursing personnel staffing shall be commensurate with:

(1) Patient/family care requirements.

(2) Staff expertise.

(3) Appropriate nursing intervention, and

(4) The availability of support services.

(f) Provision shall be made in the hospice inpatient setting for the privacy of patients/families.

(1) Space shall be provided for private patient/family visiting.

(2) Accommodations shall be available for family members to remain with the patient throughout the night.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97413.9. Psychological/Social Work Services.

(a) Psychological/social work services shall be supervised by a qualified individual who has:

(1) An advanced degree in social work, psychology, mental health counseling, psychiatry, or psychiatric nursing (a master's degree in social work or mental health counseling, or a doctorate in psychology, is preferred), or the documented equivalent in education, training, and/or experience, and

(2) Clinical experience in the counseling and casework needs of hospice patients/families.

(b) There shall be written policies and procedures which:

(1) Define the scope and conduct of patient/family care to be provided.

(2) State the minimum education and experience required for individuals who provide psychosocial services, and

(3) Shall be reviewed and revised as necessary, in accordance with Unit policy.

(c) The provision of psychological/social work services shall be documented in the patient's services Unit health record.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97413.11. Volunteers.

(a) Hospice volunteers shall provide defined hospice services under the supervision of a designated qualified and experienced Unit staff member.

(1) The responsibilities of the hospice volunteer services coordinator shall be stated in writing.

(2) There shall be written policies and procedures which:

(A) Define the scope and conduct of volunteer services provided, and

(B) Shall be reviewed and revised as necessary, in accordance with Unit policy.

(3) The number, education, training and experience of the individuals who provide volunteer services shall be consistent with the defined needs of patients/families and with the scope of volunteer services provided by the Unit.

(4) There shall be a defined screening and selection process for all volunteers.

(5) Hospice volunteers shall receive appropriate orientation and training that address at least:

(A) The Unit's goals and services.

(B) Confidentiality and the protection of patients'/families' rights.

(C) Procedures for responding to such situations as medical emergencies or deaths.

(D) The distinction between administrative and clinical authority and responsibility.

(E) The physiological and psychological aspects of terminal disease.

(F) Family dynamics, coping mechanisms, and psychosocial issues surrounding terminal disease, death, and bereavement.

(G) Safety policies and procedures, and

(H) General communication skills.

(6) Activity records will be kept for all hospital volunteers. The record shall reflect the services provided by the volunteers.

(7) The activity records of hospice volunteers shall be used to evaluate the provision of hospice volunteer services.

(8) Activity records shall be completed in a timely manner, by Unit staff who supervise the volunteers in accordance with Unit policy.

(9) A hospice volunteer shall provide direct patient care only when:

(A) Care is consistent with the patient's care plan, and

(B) The hospice volunteer's services, activities and qualifications are commensurate with the standards and required characteristics for the appropriate Hospice Care Services Unit staff member as contained in this Subchapter.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 4. Continuity of Care

§ 97414.1. Continuity of Care.

(a) The Hospice Care Services Unit shall assure the continuity of patient/family care in the home and inpatient setting through an ongoing assessment of the patient's/family's needs, development and review of the patient's care plan, and the provision of adequate and appropriate patient/family information upon transfer to any other Services Unit within the Institute.

(1) There shall be written policies and procedures for the Hospice Care Services Unit patient care containing at least identification of the hospice treatment team member(s) responsible for the initial medical, nursing, psychosocial and spiritual assessments of each patient/family.

(2) A patient's care plan shall be developed for each patient/family within three days following admission to the Unit.

(A) The plan shall be based on the treatment and management plan and the hospice treatment team assessments in coordination with the case manager.

(B) The plan shall include documentation of at least:

1. Identified patient/family problems and needs.

2. Identified goals and objectives that are realistic and achievable.

3. The care and frequency of hospice treatment team services to be provided, and

4. The medications prescribed and medical equipment required.

5. The plan shall be reviewed each time the treatment and management plan is reviewed and shall be revised as necessary or indicated by the patient's condition.

(3) Within one month following the patient's death, a plan for bereavement intervention shall be developed and documented, if such services are desired by the family.

(A) The patient's care plan shall include time frames and shall be based on the assessment of survivor risk factors and professional judgment.

(4) There shall be written policies and procedures concerning the development, review and revision of the patient's care plan for home care and inpatient services which shall have at least:

(A) Provision for the patient's care plan to be made available to all appropriate team members.

(B) Provision for regularly scheduled hospice treatment team conferences.

(C) Documentation of the findings and conclusions of the hospice treatment team conferences, and

(D) Provision for the review of each patient's/family's care plan at 30–day intervals, at the least, after admission.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97414.3. Inpatient Services.

(a) There shall be written policies and procedures for the care of inpatients in the delivery of hospice care within the Unit.

(b) Such written policies and procedures shall address the administration of treatment modalities, including intravenous procedures, chemotherapy, parenteral feedings and injections.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 5. Other Services

§ 97416.1. Counseling Services.

Counseling services shall be available to both the patient and the family. Counseling shall include bereavement counseling, provided after the patient's death, as well as dietary, spiritual and any other counseling services for the patient and family provided while the patient is in the Hospice Care Unit.

(a) Bereavement counseling. There shall be an organized program for the provision of bereavement services under the supervision of a qualified professional. The plan of care for these services shall reflect family needs, as well as a clear delineation of services to be provided and the frequency of service delivery (up to one year following the death of the patient).

(b) Dietary counseling. Dietary counseling, when required, shall be provided by a qualified individual.

(c) Spiritual counseling. Spiritual counseling shall include notice to patients as to the availability of clergy.

(d) Additional counseling. Counseling may be provided by other qualified professionals as determined by the hospice treatment team.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97416.3. Therapy Services.

(a) Physical therapy services, occupational therapy services, and speech–language pathology services shall be available to Unit patients.

(b) Physical Therapy Services.

(1) The Unit may use the Institute physical therapy program or may provide such services directly.

(2) If the Unit provides such services directly it shall do so in accordance with the provisions of Sections 97321.107 through 97321.115.

(c) Occupational Therapy Services.

(1) The Unit may use the Institute occupational therapy program or may provide such services directly.

(2) If the Unit provides such services directly it shall do so in accordance with the provisions of Sections 97321.117 through 97321.125.

(d) Speech Therapy.

(1) The Unit may use the Institute speech therapy program or may provide such services directly.

(2) If the Unit provides such services directly it shall do so in accordance with the provisions of Sections 97321.127 through 97321.135.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97416.5. Home Health Aide.

Home health aide and homemaker services shall be available and adequate in frequency to meet the needs of the patients.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97416.7. Supervision.

A registered nurse shall visit the home site at least every two weeks when aide services are being provided, and the visit shall include an assessment of the aide services.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97416.9. Duties.

Written instructions for patient care shall be prepared by a registered nurse.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4–6–87as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97416.11. Inpatient Care.

Inpatient care shall be available for pain control, symptom management and respite purposes.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 6. Administration

§ 97417.1. Administrator.

(a) The Unit shall have an administrator who shall administer and manage the Unit in accord with the policies of the Institute.

(b) The administrator shall have all the following qualifications:

(1) A bachelor's degree from an accredited college or university in a social work or health related field.

(2) Training or experience in the providing of care to the terminally ill patient.

(3) Training or experience in assisting family members or caregivers in the bereavement process.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312 of Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No.15).

Article 7. Designation

§ 97418.1. Designation.

A designated Institute shall not need a separate license for the provision of hospice care.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312.3 of Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Subchapter 12. Residential Care Services

Article 1. Definitions

§ 97420.1. Administrator.

Administrator means the program administrator, appointed in writing, who has responsibility for the operation of the Residential Care Services Unit and for all patients receiving care in that Unit.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97420.3. Residential Care Services.

Residential Care Services are those services provided to patients in need of a supervised environment but not in need of intermittent or continuous nursing care.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97420.5. Residential Care Services Unit.

Residential Care Services Unit means that distinct part or area or areas of the Institute in which residential care services are provided to patients.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 2. Designation

§ 97421.1. Designation.

A designated Institute shall not need a separate license for the provision of residential care.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 3. Administration and Staffing Requirements

§ 97425.1. Plan of Operation.

Each Residential Care Services Unit shall have and maintain a current, written definitive plan of operation. The plan and related materials shall be on file in the Residential Care Services Unit and shall be approved by and submitted to the Institute Administrator. Any significant changes in the plan of operation which would affect the services to the patients shall be submitted to the Administrator for approval. The plan and related materials shall contain the following:

(1) Statement of purposes and program goals.

(2) Administrative organization.

(3) Staffing plan, qualifications and duties.

(4) Plan for training of staff.

(5) Transportation arrangements for patients who do not have independent arrangements.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97425.3. Personnel Requirements—General.

(a) Personnel shall at all times be sufficient in numbers, and competent to provide the services necessary to meet patient's needs. In the Residential Care Services Unit designated for sixteen or more patients, sufficient support staff shall be employed to ensure provision of personal assistance and care. Additional staff shall be employed as necessary to perform office work, cooking, house cleaning, laundering, and maintenance of buildings, equipment and grounds. The Department may require any Institute to provide additional staff whenever it determines through documentation that the needs of the particular patients, the extent of services provided, or the physical arrangements of the Residential Care Services Unit require such additional staff for the provision of adequate services.

(b) All persons who supervise employees or who supervise or care for patients shall be at least eighteen (18) years of age.

(c) All personnel shall be given on–the–job training or have related experience in the job assigned to them. This training and/or related experience shall provide knowledge of and skills in the following, as appropriate for the job assigned and as evidenced by safe and effective job performance:

(1) Principles of good nutrition, good food preparation and storage, and menu planning.

(2) Housekeeping and sanitation principles.

(3) Skill and knowledge required to provide necessary patient care and supervision, including the ability to communicate with patients.

(4) Knowledge required to safely assist with prescribed medications which are self–administered.

(5) Knowledge necessary in order to recognize early signs of illness and the need for professional help.

(d) In a Residential Care Services Unit designated for sixteen (16) or more there shall be a planned on–the–job training program in the areas above including orientation, skill training and continuing education.

(e) All services requiring specialized skills shall be performed by personnel qualified by training or experience in accordance with recognized professional standards.

(f) Patients shall not be used as substitutes for required staff but may, as a voluntary part of their program of activities, participate in household duties and other tasks suited to the patient's needs and abilities.

(g) Volunteers may be utilized but may not be included in the Unit staffing plan. Volunteers shall be supervised by Unit staff.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97425.5. Personnel—Operations.

(a) When regular staff members are absent, there shall be coverage by personnel with qualifications adequate to perform the assigned tasks.

(b) Care and supervision of patients shall be provided without physical or verbal abuse, exploitation or prejudice.

(c) The program administrator shall provide for and encourage all personnel to report observations or evidence of such abuse, exploitation or prejudice.

(d) If the Unit is designated for sixteen (16) patients or more, there shall be a dated weekly employee time schedule displayed conveniently for employee reference. The schedule shall contain employee's name, job title, hours of work, and days off.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

2. Editorial correction of section number (Register 95, No. 25).

§ 97425.7. Night Supervision.

(a) Unit staff providing night supervision from 10:00 p.m. to 6:00 a.m. shall be familiar with the Residential Care Services Unit's planned emergency procedures, shall be trained in first aid and shall be available as indicated below to assist in caring for patients in the event of an emergency:

(1) In a Residential Care Services Unit caring for less than sixteen (16) patients there shall be a qualified person, awake and in the Unit.

(2) In a Residential Care Services Unit caring for sixteen (16) to one hundred (100) patients at least one employee shall be on duty in the Unit, and awake. Another employee shall be on call, and capable of responding within ten minutes.

(3) In a Residential Care Services Unit caring for one hundred one (101) to two hundred (200) patients, one employee shall be on duty in the Unit and awake, one employee shall be on call on the Institute premises; and another employee shall be on call and capable of responding within *10 minutes*.

(4) Every additional one hundred (100) patients, or fraction thereof, shall require an additional one (1) staff person on duty, in the Unit and awake.

(5) A Residential Care Services Unit shall be required to have a nurse's signal system and at least one night staff person shall be located to enable immediate response to the signal system.

(6) The requirements of this section shall not prohibit compliance with additional supervisory requirements required by the State Fire Marshal or the Department.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97425.9. Administrator.

(a) The Unit shall have an administrator who shall manage and administer the Unit in accord with Institute policies and who shall have sufficient freedom from other responsibilities and shall be in the Unit a sufficient number of hours to permit adequate attention to the management and administration of the Unit.

(b) When the administrator is not in the Unit, there shall be coverage by a designated substitute who shall have the necessary qualifications to be responsible and accountable for management and administration of the Residential Care Services Unit.

(c) The Department may require that the administrator devote additional hours in the Residential Care Services Unit, when the need for such additional hours is substantiated by written documentation by the Department.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 4. Basic Services

§ 97426.1. Basic Services.

(a) The services provided by the Residential Care Services Unit shall be conducted so as to continue and promote, to the extent possible, independence and self–direction for all patients. The patients shall be encouraged to participate as fully as their conditions permit in daily living activities in the Unit, in other Institute programs, or in the community.

(b) Services shall include at least the following:

(1) The identification of care needs and development of an individual plan of care for each patient based on the treatment and management plan and an assessment of the patient's needs by the case manager and Unit staff.

(2) The care plan shall be reviewed each time the treatment and management plan is reviewed and shall be revised as necessary or indicated by the patient's condition.

(3) Safe and healthful living accommodations and services, as specified in 97426.3.

(4) Personal assistance and care, as needed by the patient and as indicated in the treatment and management plan and care plan, with those activities of daily living such as dressing, eating, bathing, and assistance with taking prescribed medications, as specified in Section 97426.5.

(5) Regular observation of the patient's physical and mental condition, as specified in Section 97426.7.

(6) Arrangements to meet patient's health needs, including arranging transportation as specified in Section 97426.9.

(7) A planned activities program which includes social and recreational activities appropriate to the interests and capabilities of the patient, as specified in Section 97426.11.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Sec-

tion 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97426.3. Personal Accommodations and Services.

(a) The Unit shall be large enough to provide comfortable living accommodations and privacy for the patients. The following provisions shall apply:

(1) There shall be common rooms such as living rooms, dining rooms, dens or other recreation/activity rooms. The common rooms shall be of sufficient space and/or separation to promote and facilitate the program of activities and to prevent such activities from interfering with other functions.

(2) Patient's rooms shall be provided which meet, at a minimum, the following requirements:

(A) The rooms shall be large enough to allow for easy passage between and comfortable usage of beds and other required items of furniture specified below, and any patient assistant devices such as wheelchairs or walkers.

(B) No room commonly used for other purposes shall be used as a sleeping room for any patient. This includes any hall, stairway or storage area.

(C) No patient's room shall be used as a passageway to another room, bath or toilet.

(D) Not more than two patients shall sleep in a room.

(3) Equipment and supplies necessary for personal care and maintenance of adequate hygiene practice shall be readily available to each patient. The patient may provide the following items; however, if the patient is unable or chooses not to provide them, the Unit shall assure provision of:

(A) A bed for each patient, except that married patients may be provided with one appropriate sized bed. Each bed shall be equipped with good springs, a clean and comfortable mattress, available pillow(s) and lightweight warm bedding. Fillings and covers for mattresses and pillows shall be flame retardant. Rubber sheeting shall be provided when necessary.

(B) Patient's room furniture, which shall include, for each patient, a chair, night stand, a lamp, or lights sufficient for reading, and a chest of drawers.

(C) Clean linen, including blankets, bedspreads, top bed sheets, bottom bed sheets, pillow cases, mattress pads, bath towels, hand towels and wash cloths. The quantity shall be sufficient to permit changing at lease once per week or more often when indicated to ensure that clean linen is in use by patients at all times. The linen shall be in good repair. The use of common wash cloths and towels shall be prohibited.

(D) Hygiene items of general use such as soap and toilet paper.

(E) Portable or permanent closets and drawer space in the rooms for clothing and personal belongings. A minimum of eight (8) square feet (.743 sq. meters) of drawer space per patient shall be provided.

(F) Basic laundry service (washing, drying, and ironing of personal clothing).

(b) Toilets and bathrooms shall be conveniently located. The designated capacity shall be shown on the Designation Certificate and be subject to the following:

(1) At least one toilet and washbasin for each six (6) patients.

(2) At least one bathtub or shower for each ten (10) patients.

(c) Individual privacy shall be provided in all toilet, bath and shower areas.

(d) The following space and safety provisions shall apply to the Residential Care Services Unit:

(1) Sufficient room shall be available to accommodate patients served in comfort and safety.

(2) The premises shall be maintained in a state of good repair and shall provide a safe and healthful environment.

(3) All patients shall be protected against hazards within the Unit through provision of the following:

(A) Protective devices such as nonslip material on rugs.

(B) Information and instruction regarding life protection and other appropriate subjects.

(4) Stairways, inclines, ramps and open porches and areas of potential hazard to patients with poor balance or eyesight shall be made inaccessible to patients unless equipped with sturdy hand railings and unless well–lighted.

(5) Night lights shall be maintained in hallways and passages to nonprivate bathrooms.

(6) All outdoor and indoor passageways and stairways shall be kept free of obstruction.

(7) Fireplaces and open–faced heaters shall be adequately screened.

(e) A Unit providing services to patients who have physical or mental disabilities shall assure the inaccessibility of fishponds, wading pools, hot tubs, swimming or similar bodies of water, when not in active use by patients, by fencing, covering or other means.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97426.5. Personal Assistance and Care—Restraints and Postural Supports.

(a) Based on the patient's treatment and management plan and care plan and subsequent changes to those plans, the Unit shall provide assistance and care for the patient in those activities of daily living which the patient is unable to do for themself.

(b) Written policies and procedures concerning the use of restraints and postural supports shall be followed.

(c) Restraints shall only be used with a written order of a physician.

(d) The only acceptable forms of physical restraints shall be cloth vests, soft ties, soft cloth mittens, seat belts and trays with spring release devices. Soft ties means soft cloth which does not cause abrasion and which does not restrict blood circulation.

(e) Restraints of any type shall not be used as punishment or for the convenience of staff.

(f) No restraints with locking devices shall be used or available for use in the Unit.

(g) Seclusion, which is defined as the placement of a patient alone in a room, shall not be employed.

(h) Restraints shall be used in such a way as not to cause physical injury to the patient and t ensure the least possible discomfort to the patient.

(i) Physical restraints shall be applied in such a manner that they can be speedily removed in case of fire or other emergency.

(j) Supportive restraints shall be fashioned or tied in a manner which permits the restrained patient to release the restraint without assistance.

(k) Postural support means a method other than orthopedic braces used to assist patients to achieve proper body position and balance. Postural supports may only include soft ties, seat belts, spring release trays or cloth vests and shall only be used to improve a patient's mobility and independent functioning, to prevent the patient from falling out of a bed or chair, or for positioning, rather than to restrict movement. These methods shall not be considered restraints.

(l) The use of postural support and the method of application shall be specified in the patient's care plan and approved in writing by the physician or other person lawfully authorized to provide care.

(2) Postural supports shall be applied:

(A) Under the supervision of Unit staff.

(B) In accordance with principles of good body alignment and with concern for circulation and allowance for change of position.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Sec–

tion 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97426.7. Observation of the Patient.

The Unit staff shall observe each patient on a daily basis for changes in physical, mental, emotional and social functioning. Documentation of such observation shall be made in the patient's Unit health record when such observation reveals unmet needs which might require a change in the existing type of service, or possible transfer to another type of services. When changes such as unusual weight gains or losses or deterioration of health condition are observed, the Unit staff shall bring such changes to the attention of the attending physician and case manager. Progress notes shall be made in the patient's Unit health record at least weekly by Unit staff.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97426.9. Incidental Medical and Dental Care.

(a) A plan for incidental medical and dental care shall be developed by each Unit. The plan shall encourage routine medical and dental care and provide for assistance in obtaining such care, by compliance with the following:

(1) The Unit staff shall arrange, or assist in arranging, for medical and dental care appropriate to the conditions and needs of patients.

(2) The Unit staff shall provide assistance in meeting necessary medical and dental needs. This includes transportation which may be limited to the nearest available Institute service, medical or dental facility which will meet the patient's need. In providing transportation the Unit staff shall do so through the Institute's transportation program in accordance with the provisions of Section 97321.149.

(3) There shall be arrangements for separation and care of patients whose illness requires separation from others.

(4) When patients require prosthetic devices, vision and hearing aids, the Unit staff shall be familiar with the use of these devices, and shall assist the patients with their utilization as needed.

(5) The Unit staff shall provide for assisting patients with self–administered medications as needed. Unit staff, except those authorized by law, shall not administer injections but may assist patients with self–administration as needed. Assistance with self–administered medications shall be limited to the following:

(A) Medications usually prescribed for self–administration which have been authorized by the patient's physician.

(B) Medications during an illness determined by a physician to be temporary and minor.

(C) Assistance required because of tremor, failing eyesight and similar conditions.

(6) A record of dosages of medications which are centrally stored shall be maintained by the Unit.

(7) There shall be adequate privacy for first aid treatment of minor injuries and for examination by a physician if required.

(8) A complete first aid kit shall be maintained and be readily available in a specific location in the Unit. The kit shall be a general type approved by the American Red Cross, or shall contain at least the following:

(A) A current edition of a first aid manual approved by the American Red Cross, the American Medical Association or a state or federal health agency.

(B) Sterile first aid dressings.

(C) Bandages or roller bandages.

(D) Scissors.

(E) Tweezers.

(F) Thermometers.

(b) Emergency care requirements shall include the following:

(1) The name, address and telephone number of each patient's physician and dentist shall be readily available.

(2) The name, address and telephone number of each emergency agency to be called in the event of an emergency, including but not limited to the fire department, crisis center or paramedical unit or medical resource, shall be posted in a location visible to both staff and patients.

(3) The name and telephone number of an ambulance service shall be readily available.

(4) Unit staff providing care shall receive appropriate training in first aid from persons qualified by such agencies as the Red Cross.

(c) The following requirements shall apply to medications which are centrally stored:

(1) Medications shall be centrally stored under the following circumstances:

(A) The preservation of medicines requires refrigeration.

(B) Any medication is determined by the physician to be hazardous if kept in the personal possession of the patient for whom it was prescribed.

(C) Because of physical arrangements and the condition or the habits of other patients in the Unit, the medications are determined by either the program administrator or by the Department to be a safety hazard to others.

(2) Centrally stored medicines shall be kept in a safe and locked place that is not accessible to persons other than employees responsible for the supervision of the centrally stored medication.

(3) Each container shall carry all of the information specified in (6)(A) through (E) below plus expiration date and number of refills.

(4) All centrally stored medications shall be labeled and maintained in compliance with state and federal laws. No persons other than the dispensing pharmacist shall alter a prescription label.

(5) Each patient's medication shall be stored in its originally received container. No medications shall be transferred between containers.

(6) The Unit staff shall be responsible for assuring that a record of centrally stored prescription medications for each patient is maintained for at least one year and includes:

(A) The name of the patient for whom prescribed.

(B) The name of the prescribing physician.

(C) The drug name, strength and quantity.

(D) The date filled.

(E) The prescription number and the name of the issuing pharmacy.

(F) Instructions, if any, regarding control and custody of the medication.

(d) Prescription medications which are not taken with the patient upon termination of services or which are otherwise to be disposed of shall be destroyed in the Institute by the Institute administrator and one other adult who is not a patient. Both shall sign a record, to be retained for at least three years, which lists the following:

(1) Name of the patient.

(2) The prescription number and name of the pharmacy.

(3) The drug name, strength and quantity destroyed.

(4) The date of destruction.

(e) In a Unit designated for sixteen (16) patients or more, one or more employees shall be designated as having primary responsibility for assuring that each patient receives needed first aid and needed emergency medical services and for assisting patients as needed with self–administration of medications. The names of the staff employees so responsible and the designated procedures shall be documented and made known to all patients and staff.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97426.11. Planned Activities.

(a) Patients shall be encouraged to maintain and develop their fullest potential for independent living through participation in planned activities. The activities made available shall include:

(1) Socialization, achieved through activities such as group discussion and conversation, recreation, arts, crafts, music, and care of pets.

(2) Daily living skills/activities which foster and maintain independent functioning.

(3) Leisure time activities cultivating personal interests and pursuits, and encouraging leisure–time activities with other patients.

(4) Physical activities such as games, sports and exercise which develop and maintain strength, coordination and range of motion.

(5) Education, achieved through special classes or activities.

(6) Provision for free time so patients may engage in activities of their own choosing.

(b) Patients served shall be encouraged to contribute to the planning, preparation, conduct, clean–up and critique of the planned activities.

(c) The Unit staff shall arrange for utilization of available community resources through contact with organizations and volunteers to promote patient participation in community–centered activities which may include:

(1) Attendance at the place of worship of the patient's choice.

(2) Service activities for the community.

(3) Community events such as concerts, tours and plays.

(4) Participation in community organized group activities, such as senior citizen groups, sports leagues and service clubs.

(d) In a Unit designated for seven (7) or more patients, notices of planned activities shall be posted in a central location readily accessible to patients, relatives, and patient's representatives. Copies shall be retained for at least six (6) months.

(e) In a Unit designated for sixteen (16) to forty–nine (49) patients, one staff member designated by the program administrator shall have primary responsibility for the organization, conduct and evaluation of planned activities. This person shall have a least six (6) month's experience in providing planned activities or have completed or be enrolled in an appropriate education or training program.

(f) In a Unit designated for fifty (50) patients or more, one staff member shall have full–time responsibility to organize, conduct and evaluate planned activities, and shall be given such staff assistance as necessary in order for all patients to participate in accordance with their interests and abilities. The program of activities shall be written, planned in advance, kept up–to–date, and made available to all patients. The responsible employee shall have had at least one year of experience in conducting group activities and be knowledgeable in evaluating patient needs, supervising other employees, and in training volunteers.

(1) An exception to this requirement may be made by the Department upon the Institute's presentation in writing of a satisfactory alternative plan.

(g) Participation of volunteers in planned activities shall be encouraged, and such volunteers shall be under the direction and supervision of the Unit staff responsible for the activity program.

(h) The Unit shall provide sufficient space to accommodate both indoor and outdoor activities. Activities shall be encouraged by provision of:

(1) A comfortable, appropriately furnished area such as a living room, available to all patients for their relaxation and for entertaining friends and relatives.

(2) Outdoor activity areas which are easily accessible to patients and protected from traffic. Gardens or yards shall be sufficient in size, comfortable, and appropriately equipped for outdoor use.

(i) The Unit shall provide sufficient equipment and supplies to meet the requirements of the activity program including access to daily newspapers, current magazines and a variety of reading materials. Special equipment and supplies necessary to accommodate physically handicapped patients or other patients with special needs shall be provided as appropriate.

(j) When not in use, recreational equipment and supplies shall be stored when they do not create a hazard to patients.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Subchapter 13. Referral Services

Article 1. Definitions

§ 97431.1. Administrator.

Administrator means the program administrator who has ben appointed in writing, and who has responsibility for the operation of the Referral Services Unit and for all applicants for admission and patients receiving services through that Unit.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97431.3. Referral Services.

Referral services means those services provided to applicants for admission or patients when they are referred to other programs.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97431.5. Referral Services Unit.

Referral Services Unit means that distinct part or area or areas of the Institute where referral services are provided to applicants for admission or patients.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 2. Designation

§ 97432.1. Designation.

A designated Institute shall not need a separate license for the provision of referral services.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312.3, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 3. Administration

§ 97433.1. Administrator.

The Unit shall have an administrator who shall manage and administer the Unit in accord with Institute policies.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312.3, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97433.3. Staff.

(a) Personnel shall at all times be sufficient in numbers, and competence to provide the referral services necessary to meet the needs of applicants for admission and patients.

(b) The Department may require any Institute to provide additional staff in the Unit whenever it determines through a written evaluation of the staffing and the needs of the applicants for admission and/or patients or the extent of the services provided that the Unit requires such additional staff for the provision of adequate services.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312.3, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Article 4. Services

§ 97434.1. Referral Services.

Referral services are those services referring applicants for admission or patients to non–Institute facilities, programs or services.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97434.3. Referrals.

(a) Referral services shall be provided to each applicant for admission when it has been determined that:

(1) Such applicant for admission could not be appropriately served by Institute programs or;

(2) Such applicant for admission does not have Alzheimer's disease or a related dementia or;

(3) The Institute is unable to accommodate the applicant for admission at that time.

(b) Referral services shall be provided to each patient upon discharge as appropriate.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97434.5. Minimum Services.

Referral services shall include providing the applicant for admission or patient with the name, address, and telephone number of at least one facility, service or agency which may be able to better serve their needs.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97434.7. Coordination.

The Unit shall maintain an up–to–date listing or directory of facilities, services and agencies serving the aged or individuals with dementia in the same service area.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

§ 97434.9. Other Services.

The Unit may make the initial contact for or may transport, transfer or otherwise assist, the applicant for admission or the patient who is referred to a non–Institute program, facility, service or agency.

NOTE: Authority cited: Sections 1311.5 and 1312.7, Health and Safety Code. Reference: Section 1312, Health and Safety Code.

HISTORY

1. New section filed 4–6–87 as an emergency; effective upon filing. This section was adopted on an interim basis as authorized by Health and Safety Code Section 1312.7 and is repealed by operation of that same section effective 7–1–90 (Register 87, No. 15).

Chapter 12. Postsurgical Recovery Care Demonstration Project

Article 1. Definitions

§ 97500.1. Meaning of Words.

Words shall have their usual meaning unless the context or a definition clearly indicates a different meaning.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New chapter 12 (sections 97500.1–97570.5, not consecutive) filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m). For history of former chapter 12, see Register 79, No. 46. 2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.3. Accredited Record Technician.

Accredited record technician means a person who is accredited as such by the American Medical Record Association.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.5. Administrator.

Administrator means that person who is appointed, in writing, by the governing body of the facility to carry out the policies of the facility.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88,No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.7. Alteration.

Alteration means any construction work other than maintenance in an existing building which does not increase the floor area or roof area or the volume of enclosed space.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).

2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.9. Attending Surgeon.

Attending surgeon means a physician, podiatrist or dentist who practices surgery and who is on the staff of the facility or who has staff privileges and who has the responsibility for the medical care of an individual facility patient.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.11. Autoclaving.

Autoclaving means the process of sterilization by steam under pressure.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.13. Authorized Representative.

Authorized representative means a person authorized by law, by court order, or by a written statement signed by the patient, unless the patient has been legally deemed incompetent, to act on behalf of the patient.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.15. Biological.

Biological means a virus, serum, toxin, antitoxin or analogous product derived from living matter, which is applicable to the prevention, treatment or cure of disease or injury in humans.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.17. Cleaning.

Cleaning means the process employed to free a surface from dirt or other extraneous materials.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.19. Consultant.

Consultant means a qualified person who gives professional advice or service, with or without remuneration.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.21. Controlled Drugs.

Controlled drugs means those drugs covered under the Federal Comprehensive Drug Abuse Prevention Control Act of 1970, as amended, or the California Uniform Controlled Substances Act.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.23. Dangerous Drug.

Dangerous drug means any drug defined as such in section 4211 of the Business and Professions Code.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.25. Defined.

Defined means explained in writing.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.27. Dentist.

Dentist means a person who is licensed as a dentist by the California Board of Dental Examiners.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.29. Designation Agreement.

Designation agreement means the document containing the approval and authority for a facility to participate in the Postsurgical Recovery Care Demonstration Project.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.31. Designee.

Designee means the legal entity, corporation, joint venture, partnership or individual that has been designated by the Office to operate a facility.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.33. Dietetic Service.

Dietetic service means the provision of safe, satisfying and nutritionally adequate food for patients.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).

2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.35. Director.

Director means the Director of the Office of Statewide Health Planning and Development.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.37. Director of Nursing.

Director of Nursing means the registered nurse who has the responsibility for supervising nursing services provided in the facility.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.39. Distinct Part.

Distinct part means an identifiable unit of a health facility accommodating beds or patients, including but not limited to contiguous rooms, a wing, floor or building that is approved by the Office for use as a project site.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.41. Drug.

(a) Drug means a medication.

(b) Legend drug means any of the following:

(1) Any drug labeled with the statement "Caution: Federal Law prohibits dispensing without prescription" or words of similar import.

(2) Any dangerous drug as defined by section 4211 of the Business and Professions Code.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.43. Drug Administration.

Drug administration means the act in which a single dose of a prescribed drug or biological is given to a patient. The complete act of administration entails removing an individual dose from a container (including a unit dose container), verifying the dose with the prescriber's orders, verifying the identification of the patient, giving the individual dose to the patient and promptly recording the time and dose given.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.45. Drug Dispensing.

Drug dispensing means the act entailing the interpretation of a prescription order for a drug or biological and the proper selection, measuring, packaging, labeling and issuance of the drug or biological for a patient.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.47. Facility.

Facility means a Postsurgical Recovery Care Facility designated by the Office.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.49. Freestanding.

Freestanding means a building standing alone or on its own foundation free of architectural or supporting frame or attachment to an adjacent or pre–existing health facility.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.51. Full–Time Equivalent.

Full–time equivalent (F.T.E.) means a summing of hours worked by several part–time staff and divided by the 40 hours of a normal work week. The result can be expressed as numbers of F.T.E. staff.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.53. General Acute Care Hospital.

General acute care hospital means a general acute care hospital as defined in Health and Safety Code section 1250, which is licensed as such by the California Department of Health Services.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.55. Governing Body.

Governing body means the person, persons, board of trustees, board of directors, or other body in whom the final authority and responsibility is vested for operation of the Postsurgical Recovery Care Facility.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.57. Health Facility.

Health facility means any health facility licensed pursuant to chapter 2 (commencing with section 1250) of division 2 of the Health and Safety Code.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).

2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.59. Hospital.

Hospital means a general acute care hospital.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.61. Infectious Wastes.

Infectious wastes means:

(1) Significant laboratory wastes including pathological specimens which shall include all tissues, specimens of blood elements, excrete and secretions obtained from patients, and disposable articles or objects which may harbor or transmit pathogenic organisms.

(2) Equipment, instruments, utensils and articles or objects of a disposable nature, from the treatment, recovery and holding areas of patients with suspected or diagnosed communicable disease who, by nature of the disease, are required to be isolated by public health agencies.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.63. Inspection Visit.

Inspection visit means the inspection conducted by representatives of the Office as appropriate to monitor compliance with this chapter.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.65. Licensed Nurse.

Licensed nurse means a registered nurse or licensed vocational nurse.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.67. Licensed Vocational Nurse.

Licensed vocational nurse means a person licensed as such by the California Board of Vocational Nurse and Psychiatric Technician Examiners.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.69. Maintenance.

Maintenance means the upkeep of a building and equipment to preserve the original functional and operational state.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.71. Medical Director.

Medical Director means the physician who is designated to assume the overall responsibility for the medical service.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88,No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.73. Medical Emergency.

Medical emergency means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.75. Medical Staff.

Medical staff means the facility's Medical Director and all physicians, podiatrists and dentists who have staff privileges at the facility.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.77. Medication.

Medication means any chemical compound, remedy or biological substance, which may be administered to patients by any route as an aid in the diagnosis, treatment, or prevention of disease or other abnormal condition, for relief of pain or suffering, or to control or improve any psychological or pathological condition. Products which contain medications but which are primarily used for cosmetic or other non–therapeutic purposes are not medications as defined above.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.79. New Construction.

New construction means any of the following:

(a) Construction of new facilities.

(b) Additions to existing buildings.

(c) Conversions of an existing building or portions thereof not currently licensed as a health facility.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.81. Nurses' Notes.

Nurses' notes means a written record which relates, reports or reviews facts about a patient and which includes but is not limited to observations of patients, patients' reactions to care, and patients' responses to treatment.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.83. Nursing Service.

Nursing service means the organized provision of direct and indirect patient care measures.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.85. Nursing Unit.

Nursing unit means a designated patient care area of a facility which is planned, organized, operated and maintained to function as a unit. It includes patients' rooms with adequate support accommodations, services, and personnel providing nursing care and necessary management of patients.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.87. Office.

Office means the Office of Statewide Health Planning and Development.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.89. Outpatient Surgical Procedure.

Outpatient surgical procedure, for purposes of this chapter, means any surgical procedure performed on a person in a site where surgery may be legally performed and where postsurgical recovery care does not require admission to a general acute care hospital.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.91. Overnight.

Overnight means the time period that elapses between the admission of a patient to the facility prior to midnight and discharge of the same patient after 6:00 a.m. of the following morning and within a 24 hour period.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88,No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.93. Patient.

A patient means an individual admitted by a Postsurgical Recovery Care Facility to receive services.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.95. Patient Chart.

Patient chart means the total record of a patient's care in the facility.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.97. Participation Agreement.

Participation agreement means the document which specifies the terms and arrangements for the transfer and admission of patients from a participating surgery program to a Postsurgical Recovery Care Facility.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.99. Participating Surgery Program.

Participating surgery program means an outpatient surgery unit which has a participation agreement with the facility for the transfer and admission of patients to the facility. An outpatient surgery unit is any place where outpatient surgery can lawfully be performed.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.101. Pediatric Patient.

Pediatric patient means a patient under the age of 14 years.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.103. Pharmacist.

Pharmacist means a person licensed as such by the California Board of Pharmacy.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.105. Pharmaceutical Service.

Pharmaceutical service means the procuring, manufacturing, compounding, dispensing, distributing, storing, administering and disposal of drugs, biologicals and chemicals by lawfully authorized staff who have adequate space, equipment and supplies. Pharmaceutical service also includes the provision of drug information to other health professionals and patients.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).

2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.107. Physician.

Physician means a person licensed as a physician and surgeon by the California Board of Medical Quality Assurance or by the California Board of Osteopathic Examiners.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.109. Podiatrist.

Podiatrist means a person licensed as such by the California Board of Medical Quality Assurance.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.111. Postsurgical Recovery Care Facility.

Postsurgical Recovery Care Facility means a designated demonstration project site as contemplated by Health and Safety Code section 1250.9 which is either freestanding or a distinct part of a licensed health facility.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.113. Registered Dietitian.

Registered dietitian means a person who is registered as such by the American Dietetic Association.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.115. Registered Nurse.

Registered nurse means a person licensed as such by the California Board of Registered Nursing.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.117. Respiratory Care Practitioner.

Respiratory care practitioner means a person who is certified by the Division of Allied Health Professions of the California Board of Medical Quality Assurance to practice respiratory care.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.119. Service Area.

Service area means that geographic region comprised of those zip code areas from where an applicant, as contemplated by Health and Safety Code section 1250.9, with the concurrence of the Office, reasonably estimates that a preponderance of its patients will originate. The service area shall be determined by an analysis of current patient origin patterns of those physicians, dentists and podiatrists who have agreed to refer postsurgical care patients to the facility or distinct part.

In determining which zip code areas to include in defining a service area, an applicant shall begin with that zip code area with the highest number of projected patients, then add the area with the next highest number, and continue to do this, using only areas which have at least five (5) percent of the number of projected patients, until the total reaches or exceeds sixty–five (65) percent or until the only remaining areas have less than five (5) percent of the number of projected patients. The zip code areas need not be contiguous.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.121. Sterilization.

Sterilization means the process employed to destroy all living organisms.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.123. Supervision.

(a) Supervision means the instruction of an employee or subordinate in their duties and to oversee or direct work, but does not necessarily require the immediate presence of the supervisor.

(b) Direct supervision means that the supervisor shall be present in the same building as the person being supervised, and available for consultation and assistance.

(c) Immediate supervision means that the supervisor shall be physically present while a task is being performed by the person being supervised.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97500.125. Therapeutic Diet.

Therapeutic diet means any diet modified from a regular diet in a manner essential to the treatment or control of a particular disease, illness or condition.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

Article 2. Required Services

§ 97510.1. Required Services.

Each Postsurgical Recovery Care Facility shall provide, but shall not be limited to, the following services: nursing, pharmaceutical and dietary.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97510.3. Medical Staff.

(a) Each facility shall have a medical staff, chaired by the Medical Director, responsible to the governing body for the adequacy and quality of the medical care rendered to patients. The medical staff shall be composed of the Medical Director and all physicians, podiatrists and dentists who have admitting privileges at the facility.

(b) Physicians, podiatrists or dentists shall only be eligible for admitting privileges at the facility if they have admitting privileges at a participating surgery program and have admitting privileges at a general acute care hospital for the identical surgical procedures to be performed on the patient.

(c) The medical staff, with the approval of the governing body, shall adopt written by–laws which provide written procedures for the evaluation of staff applications and credentials, appointments, assignment of privileges, appeals mechanisms, and such other subjects or conditions which the medical staff and governing body deem appropriate. The by–laws shall include a provision for the formal organization of the medical staff. The medical staff shall abide by and establish a means of enforcement of its by–laws.

(d) The medical staff shall meet regularly, at least quarterly. Minutes of each meeting shall be retained and filed at the facility.

(e) The medical staff shall provide in its by–laws, rules and regulations for appropriate practices and procedures to be observed in the facility.

(f) The medical staff shall provide for the availability of a staff physician for emergencies in the event that the attending surgeon or, if applicable, his/her alternate, is not available.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97510.5. Medical Director.

(a) Each facility shall have a Medical Director who shall be a physician and shall be responsible for standards, coordination, monitoring and evaluation, and planning for improvement of medical care in the facility.

(b) The Medical Director shall:

(1) Ensure that the facility admits only those patients for whom it can provide adequate care and that the facility complies with sections 97520.1, 97520.3 and 97520.5.

(2) Act as a liaison between the medical staff, the Administrator, and the Governing Body.

(3) Be responsible for reviewing, evaluating and approving patient care policies and procedures.

(4) Act as a consultant to the Director of Nursing in matters relating to patient care.

(5) Be responsible for reviewing employees' health examination reports.

(c) The Medical Director shall not be prohibited from providing medical care.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97510.7. Nursing Administration.

The provision of nursing services shall be under supervision of a Director of Nursing who shall be a registered nurse with at least two years of experience in nursing administration within the last five years, and shall be employed at the facility at least 8 hours a day, 5 days a week. The Director of Nursing is not prohibited from providing nursing care.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97510.9. Nursing Staff Levels.

(a) Each facility shall develop and adopt a method for determining nursing staff requirements. The method shall be approved by the Office prior to use and shall be maintained as part of the records of the nursing service.

(b) The method for determining nursing staff requirements shall be based on an assessment of patient needs. This assessment shall take into consideration at least the following:

(1) The ability of the patient to care for him or herself.

(2) The surgical procedures performed on the patient.

(3) The level of skill required in patient care.

(c) There shall be daily documentation of nursing staff which shall include:

(1) Total numbers of staff, including full–time and full–time equivalents.

(2) The available nursing care hours for each patient.

(3) The categories of staff for patient care.

(d) The documentation shall be retained at the facility and be available for review by the Office at any time.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97510.11. Minimum Nursing Staff.

Each facility shall have, at any time there are one or more patients in the facility, at least two licensed nurses on duty, one of whom shall be a registered nurse certified for advanced cardiopulmonary life support. All nursing staff shall be certified for basic cardiopulmonary life support and shall have a minimum of two years experience within the last five years in the post anesthesia recovery unit or medical/surgical unit of an acute care hospital or in an outpatient surgery center.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97510.13. Patient Care Policies and Procedures.

Written policies and procedures for patient care shall be developed and maintained by the Director of Nursing in consultation with the Medical Director, other appropriate health professionals and the Administrator. If the facility plans to treat pediatric patients, policies and procedures shall specifically address the care of these patients. The responsibility and accountability of the nursing service to the medical staff shall be through the Medical Director and the Administrator and shall be defined in the patient care policies. Policies shall be approved by the governing body and the Office. Procedures shall be approved by the Office, the Administrator, and by the Medical Director where appropriate.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).

2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97510.15. Patient Recovery Care Plan.

At the time of admission, nursing staff shall develop a written patient recovery care plan for each patient. This plan shall be based on the attending surgeon's written orders for treatment, and shall reflect the special problems or needs of the patient, including dietary needs, and specific nursing or other interventions to address these needs or problems.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97510.17. Nurses' Notes.

(a) Nurses' notes shall be kept for all patients and included in the patients' records.

(b) Nurses' notes shall include, but not be limited to, the following:

(1) A concise and accurate record of nursing care administered.

(2) A record of pertinent observations including psychosocial and physical manifestations as well as incidents and unusual occurrences, and relevant nursing interpretation of such observations.

(3) Name, dosage, time, and route of administration of medications and treatment. If administration is by injection, site of injection shall be recorded.

(4) Record of vital signs.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97510.19. Nursing Service—Administration of Medications and Treatments.

(a) Medications and treatments shall be administered as follows:

(1) No medication or treatment shall be administered except on the order of a person lawfully authorized to give such order.

(2) Medications and treatments shall be administered as prescribed.

(3) Tests and taking of vital signs, upon which administration of medications or treatments are conditioned, shall be performed as required and the results recorded.

(4) Preparation of doses for more than one scheduled administration time shall not be permitted.

(5) All medications and treatments shall be administered only by appropriately licensed personnel.

(6) Medications shall be administered as soon as possible, but no more than two hours after doses are prepared, and shall be administered by the same person who prepares the doses for administration. Doses shall be administered within one hour of the prescribed time unless otherwise indicated by the prescriber.

Patients shall be identified prior to administration of a drug or treatment.

(b) No medication shall be used for any patient other than the patient for whom it was prescribed.

(c) The date, time and dose of the drug or treatment administered to the patient shall be recorded in the patient's record by the person who administers the drug or treatment. Initials may be used, provided that the signature of the person administering the medication or treatment is also recorded in the medication or treatment record.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97510.21. Nursing Service—Cleaning, Disinfecting and Sterilizing.

(a) Each facility shall adopt a written manual on cleaning, disinfecting and sterilizing procedures. The manual shall include procedures to be used in the care of utensils, instruments, solutions, dressings, articles and surfaces and shall be available for use by facility personnel. All procedures shall be carried out in accordance with the manual.

(b) Each facility shall make provisions for the cleaning and disinfecting of contaminated articles and surfaces which cannot be sterilized.

(c) Bedside equipment including but not limited to washbasins, emesis basins, bedpans and urinals shall be sanitized only by one of the following methods:

(1) Submersion in boiling water for a minimum of 30 minutes.

(2) Autoclaving at 15 pounds pressure and 121°C (250°F) for 20 minutes.

(3) Gas sterilization.

(d) Chemicals shall not be used as a substitute for the methods specified in (c) above.

(e) Electronic thermometers shall be cleaned and disinfected according to the manufacturer's instructions. Glass thermometers shall be cleaned and disinfected for at least 20 minutes with 70 percent ethyl alcohol or 90 percent isopropyl alcohol with 0.2 percent iodine. Oral and rectal thermometers shall be stored separately in clean, labeled containers with fitted lids.

(f) Individual patient care supply items designed and identified by the manufacturer to be disposable shall not be reused.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97510.23. Nursing Service—Space.

(a) A nursing station shall be maintained in each nursing unit, floor and/or building.

(b) Each nursing station shall have a cabinet, a desk, space for records, a bulletin board, an ice machine, a sink with water connections for care of equipment and handwashing, a telephone, and a specifically designated and well illuminated medication storage compartment with a lockable door. If a separate medication room is maintained, it shall have a lockable door.

(c) A refrigerator shall be provided at each nursing station, and shall meet the following standards:

(1) Be located in a clean area not subject to contamination by human waste.

(2) Maintain temperatures at or below 7°C (45°F) for chilling.

(3) Maintain the freezer at minus 18°C (0°F).

(4) Contain an accurate thermometer at all times.

(5) No foods shall be retained in the medication refrigerator.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97510.25. Pharmaceutical Service—Staff.

Each facility shall retain a consultant pharmacist to develop policies for, coordinate, supervise, and review the pharmaceutical service. There shall be a written agreement between the consultant pharmacist and the facility which includes the duties and responsibilities of both.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97510.27. Pharmaceutical Service—Policies and Procedures.

(a) Each facility shall adopt written policies and procedures governing the provision of pharmaceutical services. The policies shall be approved by the Office, the governing body, the Administrator, the Medical Director, and the consultant pharmacist. Procedures shall be approved by the Office, the Administrator, the Medical Director, and the consultant pharmacist.

(b) Policies shall address at least the following:

(1) Who shall be responsible for the pharmaceutical service and to whom they shall be accountable.

(2) Drugs and supplies to be maintained by the facility, specifically addressing the issue of drugs for emergencies.

(3) The procurement, storage, and handling of drugs and supplies maintained by the facility, specifically addressing the issue of controlled drugs.

(4) Ordering, dispensing, and administering drugs.

(5) The method of handling drugs brought into the facility by a patient.

(6) Disposition of a patient's prescribed drugs upon that patient's discharge.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97510.29. Pharmaceutical Service—General Requirements.

(a) There shall be a system assuring the availability of prescribed medications 24 hours a day.

(b) Supplies of drugs for emergency use only shall be immediately available at each nursing unit as required by facility policy.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97510.31. Order and Administration of Drugs.

(a) Drugs shall only be administered by authorized licensed personnel and upon the order of a person lawfully authorized to prescribe. This shall not preclude the administration of aerosol drugs by respiratory care practitioners.

(b) The order for drugs shall include the name of the drug, the dosage and the frequency of administration, the route of administration, if other than oral, and the date, time and signature of the prescriber.

(c) Orders for drugs should be written by the prescriber. Verbal orders for drugs shall be given only to a registered nurse, licensed vocational nurse, or pharmacist by a person lawfully authorized to prescribe and shall be recorded promptly in the patient's medical record, noting the name of the person giving the verbal order and the signature of the individual receiving the order. The prescriber shall countersign the order within 48 hours.

(d) Unless the ordered drug has been brought with or by the patient, orders for drugs shall be transmitted orally or in writing to a pharmacy by the prescriber, registered nurse, licensed vocational nurse or pharmacist.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97510.33. Disposition of Drugs.

(a) Drugs which have been dispensed for individual patient use and are labeled in conformance with State and Federal law for outpatient use shall be furnished to patients on discharge unless:

(1) The discharging physician specifies otherwise, or

(2) The drug was discontinued prior to discharge, or

(3) The labeled directions for use are not substantially the same as the most current orders for the drug in the patient's record.

(b) A record of the drugs sent with the patient shall be made in the patient's record.

(c) Patient's drugs supplied by prescription which have been discontinued and those which remain in the facility after discharge of the patient shall be destroyed in the following manner:

(1) Drugs listed in Schedules II, III or IV of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended, shall be destroyed in the presence of two pharmacists or a pharmacist and a registered nurse employed by the facility. The name of the patient, the name and strength of the drug, the prescription number, the amount destroyed, the date of destruction and the signatures of the witnesses required above shall be recorded in the patient's medical record or in a separate log. Such log shall be retained for at least three years.

(2) Drugs not listed under Schedules II, III or IV of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended, shall be destroyed in the presence of a pharmacist.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97510.35. Pharmaceutical Service—Quality Control Procedures.

(a) The consultant pharmacist shall develop and implement written quality control procedures for all drugs which are supplied to patients in the facility. The consultant pharmacist shall develop and conduct an in-service training program for the professional staff to assure compliance therewith.

(b) The consultant pharmacist shall be consulted on proper methods for repackaging and labeling of bulk cleaning agents, solvents, chemicals and poisons used throughout the facility.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97510.37. Pharmaceutical Service—Equipment and Supplies.

(a) There shall be adequate equipment and supplies for the provision of pharmaceutical services within the facility.

(b) Reference materials containing monographs on all drugs in use in the facility shall be available in each nursing unit. Such monographs must include information concerning generic and brand names, if applicable, available strengths and dosage forms, and pharmacological data including indications, side effects, adverse effects and drug interactions.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).

2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97510.39. Pharmaceutical Service—Space.

(a) Adequate space shall be available at each nursing station for the storage of drugs and preparation of medication doses for administration.

(b) All spaces and areas used for the storage of drugs shall be lockable and accessible to authorized personnel only.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97510.41. Dietetic Service—Staff.

Each facility shall retain a registered dietitian as a consultant to develop policies for, coordinate, supervise, and review the dietetic service. There shall be a written agreement between the dietitian and the facility which includes the duties and responsibilities of each.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97510.43. Dietetic Service—Policies and Procedures.

(a) Policies and procedures to govern the provision of dietetic services shall be developed and maintained by the consultant dietitian in consultation with representatives of the medical staff, nursing staff and administration. Policies and procedures shall be approved by the Medical Director, Administrator and the Office.

(b) Policies shall address but not be limited to the following:

(1) Who shall be responsible for the dietetic service and to whom they shall be accountable.

(2) Who is responsible for identifying patients' dietary needs.

(3) Who is responsible for the development of menus to meet patients' needs.

(4) Preparation and storage of food.

(5) Dietetic service staffing.

(6) Dietetic service sanitation.

(7) Dietetic service record keeping.

(8) Supplies and equipment–requirements, procurement, and storage.

(9) Dietetic service space.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97510.45. Dietetic Service—General Requirements.

(a) The dietetic service shall provide food of the quality and quantity to meet the patient's needs in accordance with physicians' orders and, to the extent medically possible, to meet the daily Recommended Dietary Allowances, 1980 Edition, adopted by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences, 2107 Constitution Avenue, Washington, DC 20418.

(b) Patient food preferences shall be respected as much as possible and substitutes shall be offered through use of a selective menu or substitutes from appropriate food groups.

(c) Diet orders shall be integrated in the patient recovery care plan.

(d) Observations and information pertinent to dietetic treatment shall be recorded in patients' medical records.

(e) If appropriate, dietary records shall be included in patients' transfer or discharge records to ensure continuity of nutritional care.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97510.47. Dietetic Service—Outside Food Service.

(a) A facility may contract to have food supplied by an outside food service.

(b) If food is provided by an outside food service, all applicable requirements herein set forth shall be met.

(c) If food is provided by an outside food service, the facility shall maintain adequate space, equipment and staple food supplies to provide patient food service in emergencies.

(d) The Office retains the right to inspect outside food service providers for compliance with requirements.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

Article 3. General Requirements

§ 97520.1. Admission.

(a) All admissions to the facility shall be planned prior to admission, in accordance with section 97520.3.

(b) Admission shall be limited to persons needing postsurgical care who have had outpatient surgical procedures performed and who will need to stay at least overnight but not more than 48 hours at the facility.

(c) Admission shall be limited to persons recovering from outpatient surgical procedures whose condition would require them to be cared for on an inpatient basis if Postsurgical Recovery Care Facilities did not exist.

(d) No person under the age of one year shall be admitted to the facility.

(e) No person with a communicable disease shall be admitted to or cared for in the facility.

(f) No person shall be admitted without written orders for treatment signed by the attending surgeon.

(g) No person shall be admitted to the facility unless examined, immediately prior to the transfer, by a physician or, if the surgery performed was podiatric or dental, the podiatrist or dentist. Such examination shall be documented and a copy placed in the patient's record.

(h) If the facility has any outbreak or undue prevalence of communicable or parasitic disease or infestation such as must be reported to the local health officer pursuant to section 97530.33, the facility shall not admit new patients until authorized to do so by the Director.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97520.3. Admission Planning.

(a) The plan for admission to the facility shall be developed by the attending surgeon, and where appropriate the anesthesiologist, and the patient. The plan shall be signed prior to admission by the patient and the attending surgeon and must be concurred to in writing by the Medical Director of the facility.

(b) The plan for admission, which shall be included in the patient's record, shall include, but not be limited to, the following:

(1) Certification that the patient meets the requirements of section 97520.1.(b) and (c).

(2) A summary of the patient's pre-surgical physical examination.

(3) The planned surgical procedure(s).

(4) Date of surgery and location at which surgery is to be performed.

(5) Expected length of stay at the facility.

(6) Name of the attending surgeon and the anesthesiologist.

(c) A copy of the plan shall be submitted to the facility prior to admission.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97520.5. Admission Procedures.

(a) Postsurgical Recovery Care Facilities shall have written procedures for admission governing:

(1) Postsurgical assessment on admission—such assessment shall be conducted by the Medical Director or a registered nurse in order to determine the condition of the patient at the time of admission.

(2) Criteria for refusing admission.

(3) Modes of transportation of patients.

(b) The procedures for admission shall identify the individual(s) responsible for patient admission.

(c) The admission procedures shall be reviewed and approved by the Office.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97520.7. Post Admission Procedures.

(a) Every patient must be properly identified immediately upon admission. Identification shall consist of a wrist identification bracelet indicating the patient's name, attending surgeon and chart number. The patient must verify that their identification is correct, and each person working with the patient must assure that the name and chart number on the bracelet matches the patient's chart.

(b) An inventory and identification of each patient's personal possessions, equipment and valuables shall be made on admission and shall be maintained by the facility during the patient's stay.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97520.9. Extended Stay.

(a) A patient shall be permitted to remain in a Postsurgical Recovery Care Facility for more than 48 hours but not more than 72 hours if the attending surgeon certifies that the additional period of recovery care is medically necessary and the Medical Director concurs.

(b) The need for the additional stay shall be documented in the patient's medical record. Documentation shall include:

(1) The reason for the additional stay.

(2) The reason it was not originally anticipated.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97520.11. Patient Discharge.

(a) Each facility shall have a written discharge procedure.

(b) The procedure shall provide for the preparation of a discharge report. The discharge report shall be signed by the attending surgeon and shall include at least the following:

(1) A summary of significant events of the patient stay.

(2) The patient's condition upon discharge.

(3) Any special care needs of the patient.

(4) The arrangements for future care.

(c) The procedure shall include provisions to assure that the medical record is checked, that discharge instructions are complete, that patients discharged with prescribed drugs are advised on the proper use and storage of those drugs, that discharge instructions are acknowledged by the patient with a signature, and that all items listed on the inventory required by section 97520.7(b) are in the possession of the patient upon discharge. The procedure shall also address the disposition of prescribed drugs.

(d) Any discharge shall be authorized in writing by the attending surgeon, except in the case of emergency transfers.

(e) Each patient must be discharged to a responsible, accompanying adult after being escorted from the facility by a member of the nursing staff.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97520.13. Patient Transfer.

(a) Each facility shall have a written transfer procedure to govern both scheduled and emergency transfers. This procedure shall be reviewed and approved by the Office.

(b) The procedures for emergency transfer shall be coordinated with the local Emergency Medical Services Authority.

(c) The procedure shall require that appropriate medical records, including complete and accurate patient information in sufficient detail to provide for continuity of care, shall accompany the patient upon transfer.

(d) The procedure shall address at least the following:

(1) Who is responsible for making transfer decisions.

(2) Who shall make the actual transfer arrangements.

(3) General guidelines for transfers.

(e) Each facility shall have a written agreement for patient transport with a licensed ambulance service.

(f) When a transfer is made, the patient's medical record shall note the date, time, condition of the patient, and reason for the transfer, and appropriate discharge records shall be completed, in accordance with section 97520.11.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97520.15. Patient Rights.

(a) Each facility shall adopt a written policy on patient rights.

(b) A list of these patient rights shall be prominently posted in both Spanish and English, and any other language prevalent to the area, within the facility so that such rights may be read by patients. This list shall include but not be limited to the patients' rights to:

(1) Exercise these rights without regard to sex, age, race, or cultural, economic, educational, or religious background or the source of payment for care.

(2) Considerate and respectful care.

(3) Knowledge of the name of the attending surgeon and the names and professional relationships of other physicians and nonphysicians who will see the patient.

(4) Receive information about the surgery performed and the recovery care to be provided in terms that the patient can understand.

(5) Receive as much information about any proposed treatment or procedure as the patient may need in order to give informed consent or to refuse this course of treatment. Except in emergencies, this information shall include a description of the procedure or treatment, the medically significant risks involved in this treatment, alternate courses of treatment or nontreatment and the risks involved in each and to know the name of the person who will carry out the procedure or treatment.

(6) Participate actively in decisions regarding medical care. To the extent permitted by law, this includes the right to refuse treatment.

(7) Full consideration of privacy concerning the medical care program. Case discussion, consultation, examination and treatment are confidential and should be conducted discreetly. The patient has the right to be advised as to the reason for the presence of any individual.

(8) Confidential treatment of all communications and records pertaining to the care and the stay in the facility. Written permission shall be obtained before the medical records can be made available to anyone not directly concerned with the care of the patient with the exception of authorized staff of the Office.

(9) Reasonable response to any reasonable request made for service.

(10) Leave the facility even against the advice of the attending surgeon.

(11) Reasonable continuity of care and to know in advance the time and location of an appointment as well as the identity of persons providing the care.

(12) Be informed of continuing health care requirements following discharge from the facility.

(13) Examine and receive an explanation of the bill regardless of source of payment.

(14) Know which rules and policies apply to the patient's conduct while a patient.

(15) Have all patients' rights apply to the person who may have legal responsibility to make decisions regarding medical care on behalf of the patient.

(16) Have all personnel observe patients' rights.

(c) A procedure shall be established whereby patient complaints are forwarded to the facility administration for appropriate response.

(d) All facility personnel shall observe these patient's rights.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).

2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97520.17. Consumer Information to be Posted.

Each facility shall post notice that it is participating in the Postsurgical Recovery Care Demonstration Project. Such notice shall be conspicuously posted in a prominent location accessible to the public.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).

2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

Article 4. Administration

§ 97530.1. Governing Body.

(a) Each facility shall be under the direction of a governing body. The governing body shall:

(1) Adopt written bylaws in accordance with legal requirements and its community responsibility which shall include but not be limited to provision for:

(A) Identification of the purposes of the Postsurgical Recovery Care Facility and the means of fulfilling them.

(B) Formal organization of the medical staff with appropriate officers and bylaws.

(C) Membership for the medical staff which shall be restricted to physicians, podiatrists and dentists, competent in their respective fields and worthy in character and in professional ethics.

(D) Self–government by the medical staff with respect to the professional work performed in the facility and for periodic meetings of the medical staff to review and analyze the clinical experience of its members based on review and analysis of the patients' medical records.

(E) Provide for the security, completeness and accuracy of the medical records.

(2) Be responsible for compliance with the requirements of the designation agreement and for the organization, management, operation and control of the facility.

(3) Provide for the appointment and reappointment of members of the medical staff.

(4) Appoint an Administrator whose qualifications, authority and duties shall be defined in writing. The written statement of qualifications, authority and duties for the position of Administrator shall be approved by the Office.

(5) Provide appropriate physical resources and personnel required to meet the needs of the patients.

(6) Conform to all applicable federal, state and local laws and regulations.

(7) Provide for the control and use of the physical and financial resources of the facility.

(8) Assure that the medical staff establishes controls that are designed to ensure the achievement and maintenance of high standards of professional ethical practices.

(9) Assure that each member of the medical staff be required to demonstrate his/her ability to practice competently and to the satisfaction of the credentials committee of the staff, at the time original application for appointment to the staff is made and at least every two years thereafter.

(10) Assure that medical staff by–laws, rules and regulations are subject to governing body approval, which approval shall not be withheld unreasonably.

(11) Be responsible for the quality of care provided in the facility.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).

2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97530.3. Administrator.

(a) Each facility shall employ or otherwise provide an Administrator to carry out the policies of the governing body.

(b) The Administrator shall be responsible for the administration and management of only one facility.

(c) The Administrator shall assure that all employees serving patients or the public shall wear name and title badges.

(d) A copy of the current regulations contained in this chapter shall be maintained by the Administrator and shall be available to all personnel.

(e) The Administrator shall be responsible for informing appropriate staff of the applicable additions, deletions and changes in postsurgical recovery care facility regulations.

(f) The Administrator shall be responsible for informing the Office via telephone within 24 hours of any unusual occurrences as defined in section 97530.35. If the unusual occurrence involves the discontinuance or disruption of services occurring during other than regular business hours of the Office, a telephone report shall be made immediately upon the resumption of business hours of the Office.

(g) The Administrator shall notify the Office within 24 hours of any deaths or medical emergencies occurring in the facility.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97530.5. Medical Records.

The Administrator shall appoint a person with experience and/or training in medical records to supervise the medical records service. If the appointed supervisor is not accredited by the American Medical Records Association, the facility shall contract with an accredited record technician to advise the medical records supervisor.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97530.7. Content of Medical Records.

Each patient's medical record shall consist of at least the following:

(1) Identification sheet including but not limited to:

(A) Name.

(B) Address.

(C) Identification number, if applicable.

(D) Age.

(E) Sex.

(F) Date and time of admission.

(G) Date and time of discharge.

(H) Name, address, and telephone number of person or agency responsible for patient.

(I) Name of patient's attending surgeon.

(J) Identification of participating surgery program at which surgery was performed.

(2) Consent forms.

(3) Copy of patient's written medical records from the participating surgery program at which the surgery was performed that are available at the time of admission to the facility.

(4) Copy of the written report of the patient's pre–surgical physical examination.

(5) Copy of the signed plan for admission described in section 97520.3.

(6) Copy of the postsurgical pre–admission examination.

(7) Order sheet including medication, treatment and diet orders.

(8) Attending surgeon's notes.

(9) Reports of all laboratory tests performed during the patient's stay at the facility.

(10) Patient recovery care plan.

(11) Nurses' notes.

(12) Discharge report.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97530.9. Patient Record Keeping.

(1) Records shall be kept on all patients admitted. All required patient health records, either as originals or accurate reproductions of the contents of such originals, shall be maintained in such form as to be legible and readily available upon the request of:

(A) The attending surgeon.

(B) Any authorized representative of the facility.

(C) Any authorized representative of the Office.

(D) Any other person authorized by law to make such a request.

(2) The medical record is the property of the facility and is maintained for the benefit of the patient, the medical staff and the facility. The facility shall safeguard the information in the record against loss, defacement, tampering or use by unauthorized persons.

(3) Patient records shall be preserved safely for a minimum of seven years following discharge of the patient, except that the records of unemancipated minors shall be kept at least one year after such minor has reached the age of 18 years and, in any case, not less than seven years.

(4) If a facility ceases operation, the Office shall be informed within 48 hours of the arrangements made for safe preservation of patient records as required.

(5) Medical records shall be filed in an easily accessible manner in the facility or in an approved medical record storage facility off the facility premises.

(6) Medical records shall be completed promptly and authenticated or signed by the attending surgeon within two weeks following the patient's discharge.

(7) Medical records shall be indexed according to patient's name, surgical procedure and attending surgeon.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97530.11. Infection Control Program.

(a) A written infection control program shall be adopted and approved by the Office. The program shall include a system for reporting infections which shall include and identify infections which are:

(1) Evident at the time of admission;

(2) Possibly acquired and evident during the patient's stay;

(3) Possibly acquired during the patient's stay and evident following discharge;

(b) Activities of the program shall include concurrent surveillance of patients and staff, prevention techniques, treatment and reporting of infections.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97530.13. Quality Assurance Program.

(a) Each facility shall have a quality assurance program designed to monitor and evaluate the quality and appropriateness of patient care, pursue alternatives to improve patient care and resolve identified problems.

(b) The Quality Assurance Program shall be implemented by a Quality Assurance Committee imposed of the Administrator, Medical Director, Director of Nursing, two physicians from participating surgery programs and a staff nurse.

(c) The Quality Assurance Committee shall adopt written procedures, for fulfilling their responsibilities. The procedures shall be reviewed by the Administrator and the Medical Director, and approved by the Governing Body and the Office.

(d) The Quality Assurance Committee shall:

(1) Review the appropriateness of the medical and nursing care provided in the facility.

(2) Identify opportunities for improving patient care.

(3) Review the pharmaceutical service and the appropriateness of medication usage for patients in the facility in conjunction with the consultant pharmacist.

(4) Identify and review the records of all patients requiring a third day of care.

(5) Review within 72 hours all patient cases where medical emergencies or deaths occur. The Quality Assurance Committee shall submit to the Office a written report of their findings in such cases.

(6) Review the availability of resources necessary to respond to medical emergencies.

(7) Review the procedures or surveillance techniques for minimizing the source and transmission of infection.

(8) Review the accuracy and completeness of information contained in the patients' medical records.

(9) Review the appropriateness of patient admissions to the facility.

(e) The Quality Assurance Committee shall meet at least quarterly and report its findings and activities to the facility's governing body and medical staff. The medical staff shall assure that appropriate follow–up and action results. Notes shall be taken at each meeting and retained at the facility. Such notes shall be made available to the Office.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97530.15. Equipment and Supplies.

(a) Equipment and supplies in each facility shall be of the quality and in the quantity necessary for care of patients as ordered or indicated.

(b) In addition, each facility shall have all equipment and supplies necessary for life support, including but not limited to, airway control and ventilation equipment, suction devices, cardiac monitor defibrillator, apparatus to establish central venous pressure monitoring, intravenous fluids and administration devices.

(c) Each facility shall develop written procedures, approved by the Office, for the inventory, inspection and testing of all equipment. Such procedures shall also address the inspection and testing of equipment and the frequency thereof.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97530.17. Personnel Policies.

Each facility shall have written policies concerning qualifications, responsibilities, and conditions of employment for each type of personnel. Such policies shall include but not be limited to:

(a) Wage scales, hours of work, and all employee benefits.

(b) A plan for an orientation for all new staff to the Postsurgical Recovery Care Demonstration Project and the policies and objectives of the facility.

(c) Provision for on the job training where necessary.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97530.19. Employee Personnel Records.

(a) Each facility shall maintain current, complete and accurate personnel records for all employees.

(1) The record shall include:

(A) Full name.

(B) Social Security number.

(C) Professional license or registration number and date of expiration, if applicable.

(D) Employment classification.

(E) Information as to past employment and qualifications.

(F) Date of beginning of employment.

(G) Date of termination of employment.

(H) Documentation of orientation to the project and the facility.

(1) Performance evaluations. All employees shall be evaluated on at least a yearly basis.

(2) Such records shall be retained for at least three years following termination of employment. Employee personnel records shall be maintained in a confidential manner, and shall be made available to authorized representatives of the Office upon request.

(b) Records of hours and dates worked by all employees during at least the most recent 12–month period shall be kept on file at the place of employment or at a central location within California. Upon request such records shall be made available, at a time and location specified by the Office.

(c) A permanent log of the temporary health services personnel employed in the facility shall be kept for three years, and shall include the following:

(1) Employee's full name.

(2) Employment classification.

(3) Name of temporary health services personnel agency.

(4) Professional license or registration number and date of expiration, if applicable.

(5) Verification of health status.

(6) Record of hours and dates worked.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97530.21. Employees' Health Examination and Health Records.

(a) All employees working in the facility, including the Administrator, shall have a health examination within 90 days prior to employment or within seven days after employment and at least annually thereafter by a person lawfully authorized to perform such a procedure. Each such examination shall include a medical history and physical evaluation. The report signed by the examiner shall indicate that the person is sufficiently free of disease to perform assigned duties and does not have any health condition that would create a hazard for that person, fellow employees, patients or visitors.

(b) The initial health examination and subsequent annual examination shall include a purified protein derivative intermediate strength intradermal skin test for tuberculosis. A chest X–ray is indicated if the employee has previously had a positive reaction to a tuberculosis skin test or is currently being treated for tuberculosis. Positive reaction to the skin test shall be followed by a 35.56 cm x 43.18 cm (14″ x 17″) chest X–ray. Evidence of tuberculosis screening within 90 days prior to employment shall be considered as meeting the intent of this section.

(c) The facility shall maintain a health record of the Administrator and for each employee which includes reports of all employment–related health examinations. Such records shall be kept for a minimum of three years following termination of employment.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97530.23. Housekeeping.

Each facility shall have written policies and procedures for its housekeeping service which shall provide for the maintenance of a clean environment for patients, employees and the public.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97530.25. Laundry.

Each facility shall have written policies and procedures pertaining to the handling, storage, transportation and processing of linens, both clean and soiled.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97530.27. External Disaster and Mass Casualty Program.

(a) A written external disaster and mass casualty program plan shall be adopted and followed. The plan shall be developed with the advice and assistance of county or regional and local disaster planning authorities and shall not conflict with county and community disaster plans. A copy of the plan shall be available on the premises for review by the Office.

(b) The plan shall provide procedures in event of community and widespread disasters. The written plan shall include at least the following:

(1) Sources of emergency utilities and supplies, including gas, water, food and essential medical supportive materials.

(2) Procedures for assigning personnel and recalling off–duty personnel.

(3) Unified medical command including a chart of lines of authority in the facility.

(4) Procedures for the conversion of all usable space into areas for patient observation and immediate care of emergency admissions.

(5) Procedures for prompt transfer of casualties when necessary and after preliminary medical services have been rendered, to the health facility most appropriate for administering definitive care including procedures for moving patients from damaged areas of the facility to undamaged areas.

(6) Arrangements for provision of transportation of patients including emergency housing where indicated, including procedures for emergency transfer of patients who can be moved to other health facilities, and including arrangements for safe and efficient transportation and transfer information.

(7) Procedures for the emergency discharge of patients who can be discharged without jeopardy.

(8) Procedures for maintaining a record of patient relocation.

(9) An evacuation plan, including evacuation routes, emergency phone numbers of physicians, health facilities, the fire department and local emergency medical services agencies and arrangements for the safe transfer of patients after evacuation.

(10) A tag containing all pertinent personal and medical information which shall accompany each patient who is moved, transferred, discharged or evacuated.

(11) Procedures for maintaining security in order to keep relatives, visitors and curious persons out of the facility during a disaster.

(12) Procedures for providing emergency care to incoming patients from other health facilities.

(13) Assignment of public relations liaison duties to a responsible individual employed by the facility to release information to the public during a disaster.

(c) The plan shall be reviewed at least annually and revised as necessary to ensure that the plan is current. All personnel shall be instructed in the requirements of the plan. There shall be evidence in the personnel files, or the orientation checklist, indicating that all new employees have been oriented to the plan and procedures at the beginning of their employment.

(d) The facility shall participate in all local and state disaster drills and test exercises when asked to do so by the local or state disaster or emergency medical services agencies.

(e) A disaster drill shall be held by the facility at six–month intervals. There shall be a written report of the facility's participation in each drill or test exercise and shall include signatures of all employees who participated. Staff from all shifts shall participate in drills or test exercises.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97530.29. Fire and Internal Disasters.

(a) A written fire and internal disaster plan incorporating evacuation procedures shall be developed with the assistance of qualified fire, safety and other appropriate experts. A copy of the plan shall be available on the premises for review by the staff and the Office.

(b) The written plan shall include at least the following:

(1) Procedures for the assignment of personnel to specific tasks and responsibilities.

(2) Procedures for the use of alarm systems and signals.

(3) Procedures for fire containment.

(4) Priorities for notification of staff including names and telephone numbers.

(5) Locations of fire–fighting equipment.

(6) An evacuation plan which shall contain procedures for evacuation and specification of evacuation routes.

(7) Procedures for moving patients from damaged areas of the facility to undamaged areas.

(8) Procedures for the emergency transfer of patients who can be moved to other health facilities, including arrangements for safe and efficient transportation.

(9) Procedures for the emergency discharge of patients who can be discharged without jeopardy.

(10) A disaster tag containing all pertinent personal and medical information to accompany each patient who is moved, transferred, discharged or evacuated.

(11) Procedures for maintaining a record of patient relocation.

(12) Procedures for handling incoming or relocated patients.

(13) Other provisions as dictated by circumstances.

(c) Fire and internal disaster drills shall be held at least quarterly, under varied conditions for each individual shift of the facility personnel. The actual evacuation of patients to safe areas during a drill is optional.

(d) The evacuation plan shall be posted throughout the facility and shall include at least the following:

(1) Evacuation routes.

(2) Location of fire alarm boxes.

(3) Location of fire extinguishers.

(4) Emergency telephone number of the local fire department.

(e) A dated, written report and evaluation of each drill and rehearsal shall be maintained and shall include signatures of all employees who participated.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97530.31. Reporting of Communicable Diseases.

All cases of reportable communicable diseases shall be reported to the local health officer in accordance with section 2500, part 1, chapter 4,

subchapter 1, article 1 of Title 17 of the California Code of Regulations and shall also be reported to the Office.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97530.33. Reporting of Outbreaks.

Any outbreak or undue prevalence of infectious or parasitic disease or infestation shall be reported to the local health officer in accordance with section 2502, part 1, chapter 4, subchapter 1, article 1 of Title 17 of the California Code of Regulations, and shall also be reported to the Office.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97530.35. Unusual Occurrences.

Occurrences such as epidemic outbreaks, poisonings, fires, major accidents or death from unnatural causes, or other catastrophes and unusual occurrences which threaten the welfare, safety or health of patients, personnel or visitors, shall be reported by the facility within 24 hours either by telephone (and confirmed in writing) or by telegraph to the local health officer and the Office. An incident report shall be retained on file by the facility for one year. The facility shall furnish such other pertinent information related to such occurrences as the local health officer or the Office may require. Every fire or explosion which occurs in or on the premises shall be reported within 24 hours to the local fire authority or, in areas not having an organized fire service, to the State Fire Marshal.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97530.37. Program Flexibility.

The Director may consider and approve in writing a written proposal from an applicant or designee who wishes to use alternative concepts, methods, procedures, techniques, equipment or personnel qualifications, while providing safe and adequate care to the patient. Such written approval will exempt the applicant or designee from compliance with conflicting provisions of this chapter.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

Article 5. Fees

§ 97540.1. Fees.

The Office shall determine the amount of the annual fee for each Postsurgical Recovery Care Facility and shall mail a notice of assessment at the time of designation and by July 1 of each year. The fee shall be due July 1 and shall be delinquent by July 30 unless alternative payment arrangements are approved by the Office. Delinquency in fee payment shall provide grounds for suspension or withdrawal of demonstration project designation pursuant to section 97560.15.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

Article 6. Operational Requirements

§ 97550.1. Approval to Begin Operation.

No facility shall admit patients until a final review of the facility has been conducted by the Office, and the Office has in writing notified the facility that it may admit patients.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97550.3. Compliance with Other Laws and Regulations.

In addition to meeting the requirements of this chapter, each Postsurgical Recovery Care Facility is responsible for complying with all other applicable laws and regulations.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

Article 7. Monitoring and Compliance

§ 97560.1. Patient Data.

Each facility shall maintain, on forms provided by the Office, those patient data and other patient information required by the Office which shall include, but need not be limited to, the following:

(1) For each patient, a Discharge Abstract Data Record which includes all of the items set forth in Health and Safety Code section 443.31(g). This information shall include procedures and diagnoses relating to the outpatient surgery the patient received prior to admission to the facility.

(2) For each patient, a record which shows the:

(A) Planned length of stay.

(B) Actual length of stay.

(3) For any patient who stays longer than 48 hours, the following shall be listed:

(A) The reason for the additional stay.

(B) The reason it was not originally anticipated.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97560.3. Cost and Charge Data.

Each facility shall provide to the Office such information and data on patient and facility costs and charges as is required by the Office. Such data shall include charges related to the surgery causing admission to the facility.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).

2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97560.5. Administrative Data.

Each facility shall keep such administrative records and statistical data as are required by the Office in a format approved by the Office.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97560.7. Data Reporting.

Data specified in sections 97560.1, 97560.3, and 97560.5 and additional data required by the Office shall be provided to the Office at such times as the Office may require, in accordance with procedures developed by the Office to protect confidentiality of patient information.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97560.9. Access to Records and Facility Sites.

Any duly authorized officer, employee, or agent of the Office may, upon presentation of proper identification, enter and inspect any building or premises, and inspect any records, of the facility, at any reasonable time to secure compliance with, or to prevent a violation of, the provisions of Health and Safety Code section 1250.9 and this chapter.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97560.11. Access to Surgery Programs.

A Postsurgical Recovery Care Facility shall provide in the participation agreement with each participating surgery program that authorized representatives of the Office may, at any reasonable time, enter the premises of the participating surgery program for the purpose of examining patient records, inspecting the surgery program, and reviewing procedures and reports of quality review committees and other records as necessary.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97560.13. Inspection of Facilities.

(a) All facilities which have been designated by the Office shall be inspected periodically by a representative or representatives of the Office.

(b) Inspections shall be conducted as frequently as necessary but not less than once each year to assure that the facility is in compliance with this chapter and the designation agreement.

(c) At the time of inspection, the facility shall be notified of any failure to comply with this chapter or the designation agreement.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97560.15. Reasons for Suspending/Withdrawing Project Designation.

The Office may suspend or withdraw demonstration project designation for any violation of this chapter, any violation of the designation agreement, or any act or omission which has or had the effect of endangering patient safety.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97560.17. Methods of Withdrawing or Suspending Demonstration Project Designation.

(a) The Office may withdraw or suspend, in whole or in part, demonstration project designation by the service of an accusation upon an authorized representative of a facility. The accusation shall state facts that give rise to the withdrawal or suspension. The withdrawal or suspension shall take effect 30 calendar days after receipt of service, unless the facility requests a hearing pursuant to subdivision (b) of this section.

(b) If a facility wants to contest a withdrawal or suspension, in whole or in part, of its demonstration project designation, it may request an administrative hearing. A request for an administrative hearing shall be mailed to the Director by certified mail, return receipt requested, within 20 calendar days of receipt of the accusation. The Director shall then cause a hearing to be held within 30 calendar days after receipt of the request for hearing.

(c) The Director may temporarily suspend, in whole or in part, demonstration project designation without the right to a prior administrative hearing when in the Director's opinion such action is necessary to protect the public health and safety. The Director shall notify an authorized representative of a facility of the effective date of a temporary suspension by service of an accusation which clearly states that it includes a temporary suspension. The temporary suspension shall remain in effect until conclusion of the administrative hearing process described in section 97560.19, if an administrative hearing is requested. At the conclusion of the administrative hearing process the temporary suspension shall either be lifted in its entirety, modified or made permanent. If no administrative hearing is requested, the temporary suspension shall remain in effect until the Director determines whether the temporary suspension shall be lifted in its entirety, modified or made permanent.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97560.19. Hearing Procedures.

(a) The hearing shall be held by an employee of the Office delegated the responsibility to conduct the hearing by the Director. The formal rules of evidence shall not apply. A facility may but need not be represented by counsel.

The hearing will be tape recorded by the Office. The facility may bring a certified shorthand reporter instead, if it agrees to provide the Office with a copy of the transcript at no charge. The hearing shall proceed as follows:

(1) One or more representatives of the Office shall present the evidence that was the basis for the accusation.

(2) The facility through its authorized representatives shall be given its opportunity to present its side of the case.

(3) Both parties shall summarize their respective positions.

(4) The case shall then be submitted to the hearing officer for a Proposed Decision.

(b) The hearing officer shall prepare a Proposed Decision with findings of fact and conclusions of law for submittal to the Director within 10 calendar days of the conclusion of the hearing.

(c) The Director shall then have 10 calendar days to adopt or reject the Proposed Decision.

(d) If the Director does not adopt the Proposed Decision, he or she will furnish a Notice of Rejection of Proposed Decision along with a copy of the Proposed Decision to the facility through the facility's authorized representative. The Director will provide the facility the opportunity to present written arguments to the Office within a reasonable period of time. The Director may also provide the facility an opportunity to present additional oral arguments before the Office. The decision of the Director will be based on the record, including the hearing record and such additional information as is provided by the facility. The decision of the Director shall be made within 30 calendar days of the rejection of the Proposed Decision.

(e) Nothing in this section or section 97560.15 or 97560.17 shall be construed as preventing the Office from informally settling the issues surrounding the proposed suspension or withdrawal of designation either before, during or after the hearing.

(f) The decision of the Director shall be final upon service of a copy of the decision on an authorized representative of the facility.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

Article 8. Physical Plant

§ 97570.1. Physical Plant and Spatial Standards.

Each freestanding Postsurgical Recovery Care Facility shall comply with the building standards for skilled nursing facilities found in chapter 2–10B of part 2 of Title 24 of the California Code of Regulations, and those provisions of Parts 3, 4, and 5 of Title 24 made applicable to skilled nursing facilities by chapter 2–10B, with the following exceptions:

(a) The isolation room or rooms otherwise required in nursing service space by sections 2–1004B(a) and 2–1015A(f) need not be provided.

(b) The activity program space otherwise required in nursing service space by section 2–1007B need not be provided.

(c) The exception under section 2–1011(b) otherwise applicable to acute care facilities shall be applicable to a Postsurgical Recovery Care Facility.

(d) Air distribution system details shall conform to those standards required for skilled nursing facilities. However, for purposes of this chapter, section 4–2203(a) of part 4 of Title 24 shall be supplemented to include the following additional exception:

The section 4–2103(a) requirement for continuous operation shall refer to air distribution zones continuously occupied. Independent air distribution zones which will be entirely unoccupied for more than twelve continuous hours may operate at levels below minimums stated in Table 4–2203(a), and below minimum design temperatures, provided that the remaining zones, which are occupied, shall be maintained in full compliance with the Building Standards Code. Before re–occupancy, the zone must be stabilized at minimum standards for both Table 4–2203(a) and design temperature. Access to controls for air distribution systems shall be limited to authorized personnel.

(e) Whenever there are practical difficulties involved in carrying out the requirements of this article, the Office may grant modifications for individual cases, provided the Office finds that a special individual reason makes the strict letter of the applicable provision of the State Building Standards Code impractical. Whenever a modification or waiver from a code requirement is granted, the reasons for granting the modification or waiver shall be recorded by the Office, as well as any substantiating justifications.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97570.3. Application for Plan Approval.

(a) No new construction of, or alteration to, a freestanding Postsurgical Recovery Care Facility shall be undertaken by a designee until the plans and specifications have been reviewed and approved by the Office in accordance with the policies and procedures for plan review set forth in chapter 7 of division 7 of Title 22, which was adopted pursuant to chapter 1 (commencing with section 15000) of division 12.5 of the Health and Safety Code.

(b) No new construction of, or alteration to, a Postsurgical Recovery Care Facility which is a distinct part of a health facility shall be undertaken by a designee until the plans and specifications have been reviewed and approved by the Office in accordance with the policies and procedures for plan review set forth in chapter 7 of division 7 of Title 22, which was adopted pursuant to chapter 1 (commencing with section 15000) of division 12.5 of the Health and Safety Code.

(c) No new construction of, or alteration to, a freestanding Postsurgical Recovery Care Facility shall be approved by the Office unless compliance with environmental impact and local zoning ordinances is demonstrated. Each facility shall also demonstrate evidence of compliance with the fire and life safety requirements of the State Fire Marshal for skilled nursing facilities, and with local fire safety requirements, prior to the approval by the Office of new construction or alteration.

(d) For purposes of plan review, the issuance of building permits, construction inspection, the issuance of certificates of completion, and the assessment of plan review and inspection fees, Postsurgical Recovery Care Facilities shall be treated as skilled nursing facilities.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Sections 1250.9 and 15071, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

§ 97570.5. Continuous Safe Structural Operation.

Each Postsurgical Recovery Care Facility shall be maintained in a safe structural condition. If the Office determines in a written report submitted to the designee that an evaluation of the structural condition is necessary, the designee may be required to submit a report by a licensed structural engineer which shall establish a basis for eliminating or correcting the structural conditions which may be hazardous to occupants. The designee shall eliminate or correct any hazardous conditions.

NOTE: Authority cited: Section 1250.9, Health and Safety Code. Reference: Section 1250.9, Health and Safety Code.

HISTORY

1. New section filed 3–7–88 as an emergency; operative 3–7–88 (Register 88, No. 12). No Certificate of Compliance required pursuant to the provisions of Health and Safety Code section 1250.9(m).
2. Editorial correction of HISTORY No. 1 (Register 90, No. 21).

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Chapter 13. Mobile Cardiac Catheterization Pilot Project

Article 1. Definitions

§ 97600.1. Mobile Van.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.30, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

§ 97600.3. Pilot Program.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.32, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency, pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

§ 97600.5. Interim Program.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.32, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

§ 97600.7. Designation Agreement.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.32, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

§ 97600.9. Interim Program Authorization Agreement.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.32, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

Article 2. Relationship Between Base and Host Hospital During Pilot Program Operation

§ 97601.1. Base Hospital and Host Hospital.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.30, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency, pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

§ 97601.3. Base and Host Hospital Patient Safety Assurance Procedures.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.30, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

§ 97601.5. Separate Requirements for Each Host Hospital.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.36, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency, pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

Article 3. General Provisions

§ 97602.1. Mobile Cardiac Catheterization Laboratory (Van) Physical Requirements.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.30, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency pursuant to Health and Safety Code section 444.41(e); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

§ 97602.3. Staffing Requirements.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.30, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

§ 97602.5. Equipment Requirements.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.30, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

§ 97602.7. Drug Requirements.

NOTE: Authority, cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.30, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

§ 97602.9. Emergency Protocol Requirements.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.30, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

§ 97603.1. Criteria for the Selection and Exclusion of Patients.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.30, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

§ 97603.3. Permitted Procedures and Minimums.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.30, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

§ 97603.5. Written Informed Consent.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.30, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

§ 97603.7. Maintenance and Update.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.30, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

Article 4. Interim Program Use of Mobile Lab When Replacing a Hospital Based Cardiac Catheterization Laboratory

§ 97604.1. Interim Use of Mobile Labs.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.30, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

Article 5. Monitoring and Record Keeping

§ 97605.1. Data and Patient Utilization.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.30, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

§ 97605.3. Access to Records and Facility Site.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.30, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

§ 97605.5. Reasons for Suspending/Withdrawing Project Approval.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.30, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

§ 97605.7. Methods of Suspending/Withdrawing Project Approval.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.30, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

§ 97605.9. Hearing Procedure.

NOTE: Authority cited: Section 11152, Government Code and Section 444.41, Health and Safety Code. Reference: Section 444.30, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

Article 6. Fees

§ 97606.1. Fees.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.30, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency Pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

Article 7. Operational Requirement

§ 97607.1. Operational Requirement.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.30, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

Article 8. Compliance with Other Laws and Regulations

§ 97608.1. Compliance with Other Laws and Regulations.

NOTE: Authority cited: Section 11152, Government Code; and Section 444.41, Health and Safety Code. Reference: Section 444.30, Health and Safety Code.

HISTORY

1. New section filed 10–23–89 as an emergency pursuant to Health and Safety Code section 444.41(c); operative 10–23–89 (Register 89, No. 45). Section remains in effect until January 1, 1991 pursuant to Health and Safety Code section 444.41(c) unless amended or repealed.
2. Expired by own terms on 1–1–91 (Register 91, No. 19).

Chapter 14. Minority Health Professions Education Foundation

Article 1. Definitions

§ 97700.1. Academic Year.

"Academic year" means a period of time, usually eight or nine months, during which a full–time college or university student would normally be expected to complete the equivalent of two semesters, or three quarters of instruction.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.2. Areas Deficient in Primary Care Services.

"Areas deficient in primary care services" means medically underserved areas.

NOTE: Authority cited: Section 69801, Education Code. Reference: Section 1, Chapter 1307, Statutes of 1987; and Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.3. Associate Degree Nursing Program.

"Associate degree nursing program" means an education program with two or three year curriculum which includes nursing theory and clinical course work that leads to an associate degree of nursing. Graduates of associate degree programs are eligible to take the state board examination to become registered nurses in California.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code; and Section 447.42, Health and Safety Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.4. Baccalaureate Degree Nursing Program.

For the purpose of this chapter, "Baccalaureate degree nursing program" means any of the following:

(a) An education program for nurses which requires a minimum of four years for completion and leads to a baccalaureate of science in nursing degree. The curriculum emphasizes nursing theory and clinical practice and also requires general education in the humanities and the behavioral and biological sciences. The general education requirements may be required to be completed after admission to the program, or they may be required prior to admission; or,

(b) An external degree program offered by institutions accredited by the National League for Nursing where students study part–time while working as nurses and, at the conclusion of the program, are awarded baccalaureate degrees in nursing.

Graduates of baccalaureate degree nursing programs are eligible to take the state board examination to become registered nurses in California.

NOTE: Authority cited: Sections 69801, Education Code. Reference: Sections 69798 and 69799, Education Code; and Section 447.42, Health and Safety Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.5. Black.

For purposes of this chapter, "Black" means a person from any of the Black racial groups of the African continent, who is not also Hispanic/Latino.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.6. Contract or "Agreement."

"Contract" or "Agreement" means a written agreement between the Office and a recipient of a scholarship or a participant in the loan repayment program which obligates the recipient or participant, in exchange for financial assistance, to practice his or her profession for a specified period of time after graduation in a medically underserved area in the state.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69898 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.7. Default.

"Default" means the failure to make one or more payments on an educational loan where the governmental or commercial lender has accelerated payments and the total outstanding balance has been made presently due and owing.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.8. Demographically Underrepresented Group.

"Demographically underrepresented group" includes Blacks, Hispanic/Latinos, and Native Americans. It also includes other minority groups whose representation in any one or more health profession in the state, as determined by the Office, is less than their representation in the general population of the state.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code; and Section 447.42, Health and Safety Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.13. Dentist.

"Dentist" means a person licensed to practice dentistry under the Dental Practices Act, Business and Professions Code section 1600, et seq.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.15. Direct Financial Assistance.

"Direct Financial Assistance" means a scholarship or loan repayment made to an individual or school, training institution, lender or note holder, on an individual's behalf.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

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§ 97700.17. Direct Patient Care.

"Direct patient care" means the provision of health care services directly to individuals being treated for, or suspected of having, physical or mental illnesses. Direct patient care includes preventive care. The first line supervision of direct patient care shall also be considered "direct patient care."

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code; and Section 447.42, Health and Safety Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.18. Director.

"Director" means Director of the Office of Statewide Health Planning and Development.

NOTE: Authority cited: Section 69801, Education Code. Reference: Section 69795, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.19. Economically Disadvantaged.

"Economically disadvantaged" means a person whose gross family income at the time of application and the immediately preceding 2 years, fell below 150 percent of the federally recognized poverty level. For the purpose of determining the poverty level, the Office shall use the table entitled, "Weighted Average Poverty Levels Based on Money Income for Families and Individuals," published by the U.S.Department of Commerce, Bureau of Census, in the most recent statistical Abstract of the United States. The Office shall adjust the table to account for inflation.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69795, 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.20. Educational Loan.

"Educational loan" means a loan of money by a commercial lender or a governmental entity, which requires repayment with interest, and which was obtained by an individual for the purpose of defraying the costs associated with health professions education, or any prerequisite to study in a health profession.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code; and Section 447.42, Health and Safety Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.21. Family Practice.

"Family practice" means the specialty of medicine called family practice which is recognized by the American Medical Association. Physicians in the specialty of family practice complete a three–year residency program certified by the American Board of Family Practice.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.23. Full–Time Student.

"Full–time student" means a student who is enrolled in a semester, trimester or quarter program of not less than 12 (twelve) credit hours or units or their equivalent, and can reasonably expect to graduate, if the student progresses in good standing, in the recognized number of academic years it takes a full–time student to graduate.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.25. Graduated Health Professional.

"Graduated health professional" means a person who has completed a health education program and is licensed to practice a health profession in the state.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.26. Graduate Training Program or Postgraduate Training Program.

"A graduate training program" or a "postgraduate training program" means an organized course of study, which is not required for basic licensure, in a recognized specialty of medicine, dentistry, optometry, podiatry, or pharmacy (or other health profession), in this state, except in the instance of the immediate postgraduate training requirement (internship) for physicians.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.27. Health Manpower Shortage Area.

"Health manpower shortage area" means a medically underserved area.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code; and Section 442.42, Health and Safety Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.29. Hispanic/Latino.

For purposes of this chapter, "Hispanic/Latino" means a person whose ancestry can be readily traced to Mexico, Puerto Rico, the Caribbean basin, or any other country of Central or South America where Spanish is the recognized official language. A person shall not be considered Hispanic/Latino solely on the basis of possession of a Spanish surname.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69795, 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.31. Letter of Understanding.

"Letter of Understanding" means a document signed by an applicant for financial assistance that indicates the applicant's awareness that the scholarship or loan repayment program requires a binding commitment to practice a health profession for a specified period of time in a medically underserved area of the state.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code; and Section 447.42, Health and Safety Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.32. Loan Repayment Commitment.

"Loan repayment commitment" means a promise by the Office to repay all or part of an educational loan in return for a twelve month period of practice (or longer) by an individual in a medically underserved area.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code; and Section 447.42, Health and Safety Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.33. Loan Repayment Program.

"Loan repayment program" means that program of the Office wherein the Office may repay government or commercial educational loans of an eligible individual who practices his or her profession for a period of time in a medically underserved area of the state.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code; and Section 447.42, Health and Safety Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.35. Medically Underserved Area.

"Medically underserved area" means a geographic area designated by the Director of the Office of Statewide Health Planning and Development which meets one of the following sets of criteria:

(a) A medical service study or urban subdivision of a medical service study area as designated by the California Health Manpower Policy Commission which has fewer than one primary care physician per 3,000 persons. Primary care physicians are licensed physicians in California who practice principally in general or family practice, general internal medicine, pediatrics or obstetrics and gynecology.

(b) A primary care health manpower shortage area as designated by the Secretary of the U.S. Department of Health and Human Services under the authority of section 254e of Title 42 of the United States Code Annotated.

(c) A facility determined by the Director to have a shortage of nursing personnel under section 447.42 of the Health and Safety Code.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code; and Section 447.42, Health and Safety Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.41. Native American Indian.

For the purposes of this chapter, "Native American Indian" means a person who presents acceptable written documentation as determined by the Director that he/she is either:

(a) a member of an American Indian tribe or band which is under the jurisdiction of the Federal Government as shown on the list of recognized tribes and bands maintained by the Federal Bureau of Indian Affairs, or

(b) has at least one–quarter American Indian Blood quantum of tribes or bands indigenous to the United States and/or Canada.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69795, 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.43. Other Health Professions.

"Other health professions" means health professions other than allopathic or osteopathic medicine, dentistry and nursing for which the need, as determined by the Office, is greater than the available supply in medically underserved areas of the state. Other health professions include, but need not be limited to, optometry, podiatry and pharmacy.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69795, 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.45. Other Persons Underrepresented.

"Other persons underrepresented" means a person or persons from a group described in section 97700.8 of this chapter.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69795, 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.47. Participating School or Institution.

"Participating school or institution" means an accredited university, training institution, school, college or program that has agreed with the Office to provide timely data and information on students who are in attendance and have applied (or are applying) for financial assistance under this chapter.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.49. Persons Who Agree in Writing.

"Persons who agree in writing" means those persons in the Registered Nurse Education Program, who are not necessarily members of a group demographically underrepresented as defined in section 97700.8, but who agree, in exchange for a scholarship or loan repayment commitment, to practice the profession of nursing after graduation for a specified period of time in a medically underserved area of the state.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code; and Section 447.42, Health and Safety Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.51. "Physician and Surgeon" or "Physician."

"Physician and Surgeon" or "Physician" means any person holding a valid and unrevoked physician's and surgeon's certificate or certificate to practice medicine and surgery, issued by the Medical Board or the Board of Osteopathic Examiners of this state.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.53. Primary Care Services.

"Primary care services" means those services routinely provided by physicians who practice principally in general or family practice general internal medicine, pediatrics or obstetrics and gynecology.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.55. Registered Nurse.

"Registered nurse" means a person licensed to practice nursing under the Nursing Practice Act (Business and Professions Code section 2700, et seq.), and who is authorized to place letters "R.N." after his/her name.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code; and Section 447.42, Health and Safety Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.57. Registered Nurse Education Program.

"Registered Nurse Education Program" means the program of educational financial assistance for registered nurses or registered nursing students authorized in article 4 (commencing with section 447.40) of part 1.95 of division 1 of the Health and Safety Code.

NOTE: Authority cited: Section 69801, Education Code. Reference: Section 447.42, Health and Safety Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.59. Service Obligation.

"Service obligation" or "obligated service" means that contractual obligation agreed to by a recipient of a scholarship or loan repayment commitment where the recipient agrees to practice his or her profession for a specified period of time in a medically underserved area of the state.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799 Education Code; and Section 447.42, Health and Safety Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.61. Scholarship.

"Scholarship" means financial assistance provided to an eligible individual who agrees, in return for the assistance, to practice his or her profession for a specified period of time in a medical underserved area of the state.

NOTE: Authority cited: Section 69801, Education Code. Reference: Section 69798 and 69799 Education Code; and Section 447.42, Health and Safety Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.63. Underrepresented Minority Groups.

"Underrepresented minority groups" means Blacks, Hispanic/Latinos, Native American Indians and those groups listed in section 97700.8 of this chapter.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97700.65. Underrepresented Person.

"Underrepresented person" means a person from a group listed in section 97700.8 of this chapter.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code; and Section 447.42, Health and Safety Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

Article 2. General Provisions

§ 97720. Application Process for Financial Assistance.

(a) Each person desiring a scholarship or loan repayment commitment shall submit a completed application, available from the Office, which will require the following information:

(1) Written documentation that the applicant complies with the provisions of section 97730 if applying for a scholarship, or section 97740 if applying for a loan repayment commitment;

(2) The dollar amount requested for scholarship expenses, with justification for the amount requested, or the dollar amount requested for loan repayment assistance, with details on outstanding educational loans including the current outstanding loan balances;

(3) An official copy of college transcripts for all postsecondary institutions attended;

(4) The applicant's work experience (if any);

(5) Community background, including any residence in a medically underserved area;

(6) The applicant's career goals;

(7)Financial need;

(8) Length of time before the applicant would be available to provide services in a medically underserved area;

(9) The medically underserved area where the applicant would propose to practice, and potential employers from whom the applicant would seek employment;

(10) Community involvement, including extra curricular activities;

(11) A personal statement by the applicant indicating any other qualifications, attributes or characteristics which would increase the likelihood the applicant will continue to practice in a medically underserved area after the service obligation has ended;

(12) A signed Letter of Understanding, which is an acknowledgement by the applicant that financial assistance requires a binding commitment from those applicants selected for a scholarship or loan repayment commitment to practice their health professions in a medically underserved area of the state for a specified period of time;

(13) Health care license number (if applicable); and

(14) Any other information the applicant believes is relevant.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97722. Selection Process.

(a) In deciding which applicants will receive financial assistance, the Office shall take into consideration those factors which it determines indicate the greatest probability of program success, the needs of the state in general, and the needs of each specific medically underserved area.

(b) Special consideration may be given to:

(1) Allopathic and osteopathic students intending to enter family practice internal medicine, pediatrics or osteopathic general practice;

(2) Those applicants who indicate an intent to pursue other types of clinical practice or specialized training for which the Office has identified a particular need;

(3) Those applicants who come from an ethnic group or underrepresented group for which high representational disparity exists in the state;

(4) With regard to applicants seeking loan repayment, applicants who have the required degree, have completed all needed postgraduate training, have an unrestricted license, and are immediately ready to provide services.

NOTE: Authority cited: Section 69801 Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97724. Incompatible Existing Obligations.

(a) Any applicant who owes a conflicting obligation for professional practice to another entity entered into before filing an application under this chapter shall be ineligible for a scholarship or loan repayment commitment.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97726. Conditions Under Which a Scholarship or Loan Repayment Obligation May Be Canceled, Reduced Waived or Suspended.

(a) Any obligation of a recipient for service or payment shall be canceled upon the death of the recipient.

(b) A recipient may seek a waiver, suspension, reduction, or delay of the service or payment obligations incurred under this chapter by written request to the Office setting forth the bases, circumstances, and causes which support the requested action. The Office may approve a request for a suspension for a period of not more than 1 year. A renewal of this suspension may also be granted.

(c) The Office may waive, suspend, reduce or delay any service or payment obligation incurred by a recipient whenever compliance by the recipient is impossible, or would involve extreme hardship to the recipient, and if the enforcement of the service or payment obligation would be against equity and good conscience. The Office shall give special consideration to the unique requirements of pregnancy.

(d) Compliance by a recipient with a service or payment obligation shall be considered impossible if the Office determines, on the basis of information and documentation, that the participant suffers from a physical or mental disability resulting in the permanent (or near–permanent) inability of the recipient to perform the service or other activities which would be necessary to comply with the obligation.

(e) In determining whether to waive, suspend, reduce or delay any or all of the service or payment obligations of a recipient as imposing an undue hardship and being against equity and good conscience, the Office may consider:

(1) The recipient's present financial resources and obligations;

(2) The recipient's estimated future financial resources and obligations; and,

(3) The extent to which the recipient has problems of a personal nature, such as physical or mental disabilities, or terminal illness in the immediate family, which so intrude on the recipient's present and future ability to perform as to raise a presumption that the individual will be unable to perform the obligation incurred.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

Article 3. Scholarships

§ 97730. Eligibility Criteria for Scholarship Assistance.

(a) To be eligible for a scholarship under this chapter, an applicant must:

(1) Be accepted, or be enrolled, as a full–time student in a school or training institution, properly accredited by the appropriate accrediting authority, to prepare the applicant to provide health professional services in the state; and,

(2) Be pursuing, or planning to pursue, a course of study leading to a degree in allopathic or osteopathic medicine, dentistry, nursing or other health profession determined by the Office to be needed in medically underserved areas of the state; and,

(3) Be willing to commit to practice his or her profession, after graduation, for a specific period of time, in a medically underserved area in the state; and,

(4) Except in those instances where the applicant is applying for a scholarship under the Registered Nurse Education Program, be a member of a group listed as a demographically underrepresented group in section 97700.8; and,

(5) Be at least 18 years of age.

(b) A prospective health professions student need not be accepted by, or enrolled in, a health professions training program to apply for a scholarship. Evidence of acceptance will be required before a scholarship is awarded.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97731. Duration of Scholarship Awards.

(a) Subject to the availability of funds, the Office will award scholarships under this chapter for one academic year at a time.

(b) Subject to the availability of funds, the Office may award additional scholarships for additional academic years (up to a total of four) if:

(1) The recipient applies for an additional scholarship;

(2) The additional scholarship will not extend the total period of financial assistance beyond four academic years;

(3) The ongoing academic performance of the recipient is reported by the program, school or institution to be acceptable; and,

(4) The recipient otherwise continues to be eligible for participation in the program.

NOTE: Authority cited: Section 69801 Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97732. Permissible Scholarship Costs and Amounts.

(a) A scholarship for each academic year may consist of:

(1) Tuition (which may be limited to a maximum amount, but will never be approved for more than that actually charged by a participating school or institution); and,

(2) Reasonable educational expenses including required fees, books, supplies and educational equipment (also subject to a maximum or actual limitation); and,

(3) A monthly stipend for the period beginning with the first month of each academic year in which the individual is a participant, and ending with the last month of the academic year.

(b) The Office will periodically publicize and update the maximum amounts that will be permitted for tuition, reasonable educational expenses, and the monthly stipend.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97734. Scholarship Payment and Suspension Provisions.

(a) The Office may provide scholarship assistance directly to the student, or the Office may enter into an agreement with the participating school or institution at which the student scholarship recipient is enrolled for the direct payment of tuition and reasonable educational expenses on the recipient's behalf.

(b) The monthly stipend will be mailed monthly to the student, at an address of the student's choosing.

(c) The Office may suspend scholarship payments to or on behalf of a student if any of the following occurs:

(1) The participating school or institution approves a leave–of–absence for the student for health, personal or other reasons, and the leave, or the reasons for the leave, significantly decrease the probability that the student would complete his or her studies in a reasonable period of time;

(2) The participating school or institution requires the student to repeat course work for which scholarship payments have previously been made. However, if the repeated course work does not delay the recipient's graduation date, scholarship payments shall continue except for any additional costs relating in the repeated course work; or

(3) The student abandons the course or study in mid–academic year, is suspended by the school, or fails to pursue the course work for any other reason not excused by this Office.

(d) The Office may require a scholarship recipient (or the participating school or institution) to supply any relevant information, during an academic year, which demonstrates satisfactory school performance, and which validates the recipient's continuing eligibility for the scholarship payments.

NOTE: Authority cited: Section 69801 Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97735. Obligations of the Scholarship Recipient.

(a) Except for individuals who are members of a group referred to in section 97700.8 of this chapter, and are recipients of a scholarship under the Registered Nurse Education Program, in return for a scholarship under this chapter, each recipient shall be obligated to practice his or her health profession in direct patient care for a specified period of time in a medically underserved area in the state.

(b) Except for recipients who receive a deferral under paragraph (d) of this section, a scholarship recipient shall commence the practice of his or her health profession in a medically underserved area of the state as soon as possible following the completion of the recipient's approved course of study or by such later date as may have been agreed to by the Office and the applicant in writing.

(c) The period which the recipient is obligated to serve shall be 12 months for each academic year for which the recipient received a scholarship under this chapter, or 24 months, whichever is greater.

(d) The Office may defer the beginning date of a service obligation to allow a scholarship recipient to pursue additional postgraduate training. The period of this deferment shall not exceed:

(1) Four years for any scholarship recipient receiving a degree from a school of medicine or osteopathy; or,

(2) One year for any other scholarship recipient, except that this time period may be extended for additional postgraduate training.

(e) Each scholarship recipient receiving a degree in medicine or osteopathy who does not intend to apply for a residency shall still complete at least one year of approved postgraduate training to qualify for licensure, before beginning the period of obligated service. This one year of training shall be in:

(1) An allopathic flexible first–year program with training in family practice, internal medicine, pediatrics, or an allopathic categorical first–year program in family practice or internal medicine; or,

(2) A rotating internship in osteopathic medicine.

(f) Any recipient receiving a degree in medicine or osteopathy who fails to complete any postgraduate training that is a minimum requirement of licensure shall be subject to the default penalties of subdivision (a) of section 97737.

(g) A scholarship recipient shall request the approval of the Office before altering the length or type of approved postgraduate training for which the period of obligated service was deferred under this section.

(h) Any recipient whose period of obligated service has been deferred under this section shall begin and complete the obligate service following the completion of the requested or required postgraduate training.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97737. Penalties for Non–Compliance by a Scholarship Recipient.

(a) When a scholarship recipient fails to maintain an acceptable level of academic standing (as established by the participating school or institution), is dismissed from school for disciplinary reasons, or voluntarily terminates the course of study or program for which the scholarship was awarded, then the recipient shall be liable to repay the amount that has been paid by the Office, plus interest. Interest shall be computed at the rate of 7 percent per year. The interest shall begin accruing from the date the Office determines the course of study ceased. Repayment shall be required in quarterly installments, in amounts calculated by the Office to permit total repayment in seven years.

(b) If a scholarship recipient fails to begin or complete the service obligation, the Office shall be entitled to recover from the individual an amount determined by the following formula, plus interest:

$$A = F\left(\frac{T-S}{T}\right)$$

in which "A" is the amount the Office is entitled to recover; "F" is the sum of the amounts paid under this chapter; "T" is the total number of months in the individual's period of obligated service; and "S" is the number of months of such period already served by the individual. Interest shall be charged on the outstanding principal at the rate of 10 percent per year. Interest shall begin to accrue from the date the service obligation was to begin, or when it prematurely ceased, as determined by the Office. Repayment shall be required in quarterly installments, in amounts calculated by the Office to permit total repayment in seven years.

(c) If a scholarship recipient fails to accept payment or instructs the participating school or institution not to accept payment of the scholarship provided by the Office, for any reason not listed in paragraph (a), then the recipient must, in addition to repaying the Office any amounts already provided, plus interest, pay to the Office the amount of $1,500.00 liquidated damages. The liquidated damages shall be due and owing within 30 days of the date on which the participant fails to accept payment of the scholarship award or instructs the school not to accept payment. Interest shall be computed at the rate of 10 percent per year. Repayment of any scholarship monies, and interest, shall be required in quarterly installments, in amounts determined by the Office to permit repayment in seven years.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801

unless amended or repealed by the Office of Statewide Health Planning and Development.

Article 4. Loan Repayment Program

§ 97740. Eligibility Criteria for the Loan Repayment Program.

(a) To be eligible to participate in the loan repayment program, an applicant shall:

(1) Be a full–time student in a properly accredited school, in the final year of a course of study or program leading to a degree in allopathic or osteopathic medicine, dentistry, nursing, or other health profession determined by the Office to be needed in medically underserved areas of the state; or

(2) Be enrolled in a medical or osteopathic internship, or a medical or osteopathic residency in family practice; or,

(3) Be a licensed health professional in a health profession determined by the Office to be needed in a medically underserved area; and,

(4) Be willing to commit to practice his or her profession, for a specified period of time after licensure, in a medically underserved area of the state.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97743. Loan Repayment Program Provisions.

(a) Subject to the availability of funds, the Office may contract to repay educational loans in return for services health professionals provide in medically underserved areas. The loan repayment commitment made by the Office shall consist of a promise to repay, on behalf of a program participant, the principal, interest and related expense on outstanding governmental and commercial educational loans, not in default, received by the participants for:

(1) Tuition expenses; and,

(2) Other reasonable educational and living expenses incurred while a participant attended school (subject to approval as to eligibility by the Office).

(b) The service obligation of the participant shall be 12 months for each loan repayment contract entered into with the Office. However, a service obligation in a medially underserved area shall not be for a period of less than 24 months. The service obligation must be fulfilled on a full–time basis. "Full–time basis" means a forty hour work week, minus normal time off for vacation (not to exceed 4 weeks per year) and sick leave. The service obligation must be in direct patient care.

(c) After each 12 month period when a recipient has fulfilled his or her service obligation, the Office shall pay up to $20,000 in retirement of the outstanding educational debt. The precise terms and conditions of the loan repayment commitment and the service obligation shall be detailed in the agreement entered into between the Office and the participant.

(d) The Office may enter into a collateral agreement with a lender (or note holder) to repay directly a loan or loans. Repayment shall be conditioned on satisfactory performance of the service obligation by the participant. The repayments shall be made in accordance with a schedule agreed to between the Office and the program participant. The Office may agree to repay all of a particular loan, or only partially repay a loan. If an individual has more than one eligible loan outstanding, the Office may select which loan it will repay. Nothing in this paragraph shall prohibit the Office from paying a participant directly, instead of a lender or note holder.

(e) During the period of service obligation, the participant shall continue to make any required periodic payments on all outstanding loans. The Office shall require periodic reports substantiating service in a medially underserved area (and other information) prior to releasing funds to a participant or a lender (or note holder).

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97745. Additional Loan Repayment Commitment Contracts.

The Office may enter into additional loan repayment commitment contracts if:

(1) The participant requests an additional contract;

(2) The additional loan repayment commitment will not extend the total service obligation beyond 48 months;

(3) The performance of the participant in the medically underserved area is determined by the Office to be acceptable; and,

(4) The participant otherwise continues to be eligible for participation in the program.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97747. Penalties for Non–Compliance by a Loan Repayment Program Participant.

(a) If a participant or student breaches the contract with the Office by failing to either begin the service obligation or to complete it, the Office shall be entitled to recover from the individual an amount determined by the following formula, plus interest:

$$A = F\left(\frac{T-S}{T}\right)$$

in which "A" is the amount the Office is entitled to recover; "F" is the sum of the amounts paid under this chapter to or on behalf of the individual; "T" is the total number of months in the individual's period of obligated service; and "S" is the number of months of such period already served by the individual. Interest shall be charged on the outstanding principal at the rate of 10 percent per year. Interest shall begin to accrue from the date of the breach, as determined by the Office. Repayment shall be required in quarterly installments, in amounts calculated by the Office to permit repayment in seven years.

NOTE: Authority cited: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section filed 5–24–90 as an emergency; operative 5–24–90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

Article 5. Registered Nurse Education Program

§ 97750. Eligibility Criteria for Financial Assistance Under the Registered Nurse Education Program.

(a) To be eligible for a scholarship under the Registered Nurse Education Program, an applicant shall:

(1) Be pursuing or planning to pursue, a course of study leading to a baccalaureate degree in nursing;

(2) Be a member of a group defined in section 97700.8, except that an applicant may not be required to be a member if he or she agrees to practice nursing for a specified period of time in direct patient care in a medically underserved area of the state; and,

(3) Be nominated by the program director or designee of the baccalaureate degree nursing program to which the applicant has applied (or in-

tends to apply), or the program director or designee of an associate degree nursing program the applicant has attended, if either program director has agreed to make nominations to the Office. In making the nominations, the nursing program directors or their designees shall take into account the following:

(A) The nominee's work experience;

(B) The community background of the nominee, including residence in a medically underserved area;

(C) The nominee's career goals;

(D) Prior academic performance, and potential for future academic success; and,

(E) Financial need.

If an applicant is not applying to, and has not attended a school that has agreed to make nominations, then the applicant shall provide at least three letters of recommendation from former teachers or other community representatives.

(4) Priority consideration shall be given by the Office to individuals who have graduated from an Associate Degree Nursing Program. Priority shall also be given to full-time students, or less than full-time students who can complete their baccalaureate degree requirements in the shortest time.

(b) To be eligible for a loan repayment award under the Registered Nurse Education Program, an applicant shall:

(1) Be in the final year of the course of study leading to a baccalaureate degree in nursing; or,

(2) Currently possess a baccalaureate degree in nursing and have a valid license as a registered nurse; and,

(3) Be willing to practice nursing for a specified period of time in direct patient care in a medically underserved area of the state.

Priority shall be given by the Office to individuals whose commitment or ethnic and cultural background indicates the likelihood of successful long-term employment in a medically underserved area even after the service obligation has ended.

NOTE: Authority cited: Section 69801, Education Code. Reference: Section 447.42, Health and Safety Code.

HISTORY

1. New section filed 5-24-90 as an emergency; operative 5-24-90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97752. Obligation of Registered Nurse Education Program Scholarship Recipient.

(a) Each recipient of a scholarship under the Registered Nurse Education Program, except for those recipients who are members of a group included in section 97700.8 of this chapter, shall agree to practice nursing for a specified period of time in direct patient care in a medically underserved area of the state.

NOTE: Authority cited: Section 69801, Education Code. Reference: Section 447.42, Health and Safety Code.

HISTORY

1. New section filed 5-24-90 as an emergency; operative 5-24-90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97755. Loan Repayment Provisions of the Registered Nurse Education Program.

(a) The maximum loan repayment commitments of the Office for the Registered Nurse Education Program shall be $4,000 for the first 12 months during which a program participant practices nursing in a medically underserved area, then $4,000, $5,000 and $6,000 respectively, for the 2nd, 3rd, and 4th, 12 month periods.

NOTE: Authority cited: Section 69801, Education Code. Reference: Section 447.42, Health and Safety Code.

HISTORY

1. New section filed 5-24-90 as an emergency; operative 5-24-90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97757. General Provisions for the Registered Nurse Education Program.

The provisions of articles 1, 2, 3, 4, and 6 shall be applicable to the Registered Nurse Education Program, unless contrary to a section in this article.

NOTE: Authority cited: Section 69801, Education Code. Reference; Section 447.42, Health and Safety Code.

HISTORY

1. New section filed 5-24-90 as an emergency; operative 5-24-90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

§ 97759. Pilot Project for Associate Degree Nurses.

(a) Not more than five percent of funds available under the Registered Nurse Education Program shall be available from a pilot program to encourage nursing students in associate degree nursing programs to complete a baccalaureate degree nursing program.

(b) To be eligible for scholarship aid under the pilot program for associate degree nurses, an applicant shall meet the eligibility criteria in article 2, except that the person shall be enrolled in a course of study leading to an Associate Degree in Nursing and agree to obtain a Baccalaureate of Science Degree in Nursing within five years of obtaining an associate degree in nursing.

(c) If the recipient fails to obtain a Baccalaureate of Science Degree within the five year period, he or she shall be responsible to repay any scholarship assistance within seven years, with no interest.

NOTE: Authority cited: Section 69801, Education Code. Reference: Section 447.42, Heath and Safety Code.

HISTORY

1. New section field 5-24-90 as an emergency; operative 5-24-90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

Article 6. Appeals

§ 97760. Appeals.

(a) Any person adversely affected by any decision of the Office under this chapter may petition the Office for a review of the decision. This petition shall be filed with the Office within 15 business days of the notice of adverse decision, and shall specifically describe the matters which are disputed by the petitioner. The Office may immediately respond to the petition, and the response shall be a final administrative decision, or it may refer the matter to an employee appointed to act as a hearing officer.

(b) If the matter is referred to an employee for a hearing, a hearing shall be scheduled and conducted informally. The formal rules of evidence shall not apply. The employee hearing officer may accept into the record any information or evidence upon which reasonable people could rely. The employee hearing officer shall then prepare a proposed decision, and shall submit it to the Director, or the Director's designee, for final administrative action.

NOTE: Authority: Section 69801, Education Code. Reference: Sections 69798 and 69799, Education Code.

HISTORY

1. New section field 5-24-90 as an emergency; operative 5-24-90 (Register 90, No. 27). Section remains in effect pursuant to Education Code section 69801 unless amended or repealed by the Office of Statewide Health Planning and Development.

Article 7. Citizenship and Alien Verification Requirements

§ 97770. Limitations on the Public Benefits of Scholarships, Loans or Loan Repayments for Aliens.

(a) All eligibility requirements contained herein shall be applied without regard to the race, creed, color, gender, religion, or national origin of the individual applying for the public benefit.

(b) Pursuant to Section 411 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104–193 (PRWORA)), (8 U.S.C., Section 1621), and notwithstanding any other provision of this division, aliens who are not qualified aliens, nonimmigrant aliens under the Immigration and Nationality Act (INA) (8 U.S.C., Section 1101 et seq.), or aliens paroled into the United States under Section 212(d)(5) of the INA (8 U.S.C., Section 1182(d)(5)) for less than one year, are not eligible to receive a scholarship, loan or loan repayment as set forth in Chapter 5 of Part 3 of Division 107 of the Health and Safety Code (otherwise known as those programs administered by the Minority Health Professions Education Foundation), except as provided in 8 U.S.C. 1621(c)(2).

(c) A qualified alien is an alien who, at the time he or she applies for, receives, or attempts to receive a public benefit, is, under Section 431(b) and (c) of the PRWORA (8 U.S.C., Section 1641(b) and (c)), any of the following:

(1) An alien who is lawfully admitted for permanent residence under the INA (8 U.S.C., Section 1101 et seq.).

(2) An alien who is granted asylum under Section 208 of the INA (8 U.S.C., Section 1158).

(3) A refugee who is admitted to the United States under Section 207 of the INA (8 U.S.C., Section 1157).

(4) An alien who is paroled into the United States under Section 212 (d) (5) of the INA (8 U.S.C., Section 1182 (d) (5)) for a period of at least one year.

(5) An alien whose deportation is being withheld under Section 243(h) of the INA (8 U.S.C., Section 1253(h)) (as in effect immediately before the effective date of Section 307 of division C of Public Law 104–208) or Section 241(b)(3) of such Act (8 U.S.C., Section 1251(b)(3)) (as amended by Section 305(a) of division C of Public Law 104–208).

(6) An alien who is granted conditional entry pursuant to Section 203(a)(7) of the INA as in effect prior to April 1, 1980. (8 U.S.C., Section 1153(a)(7)) (See editorial note under 8 U.S.C., Section 1101, "Effective Date of 1980 Amendment.")

(7) An alien who is a Cuban or Haitian entrant (as defined in Section 501 (e) of the Refugee Education Assistance Act of 1980 (8 U.S.C., Section 1522 note)).

(8) An alien who meets all of the conditions of subparagraphs (A), (B), (C), and (D) below:

(A) The alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent of the alien consented to, or acquiesced in, such battery or cruelty. For purposes of this subsection, the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered as acts of violence.

(B) There is a substantial connection between such battery or cruelty and the need for the benefits to be provided in the opinion of the Office of Statewide Health Planning and Development. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided.

1. The benefits are needed to enable the alien to become self–sufficient following separation from the abuser.

2. The benefits are needed to enable the alien to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien from the abuser.

3. The benefits are needed due to a loss of financial support resulting from the alien's separation from the abuser.

4. The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien to lose his or her job or to earn less or to require the alien to leave his or her job for safety reasons.

5. The benefits are needed because the alien requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

6. The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into a day care for fear of being found by the abuser).

7. The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

8. The benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien and/or to care for any resulting children.

9. Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien had when living with the abuser.

(C) The alien has a petition that has been approved or has a petition pending which sets for a prima facie case for:

1. status as a spouse or child of a United States citizen pursuant to clause (ii), (iii), or (iv) of Section 204(a)(1)(A) of the INA (8 U.S.C., Section 1154(a)(1)(A)(ii), (iii) or (iv)),

2. classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA (8 U.S.C., Section 1154(a)(1)(B)(ii) or (iii),

3. Suspension of deportation and adjustment of status pursuant to section 244 (a) (3) of the INA (8 U.S.C. sec. 1254) as in effect prior to April 1, 1997 [Pub.L. 104–208, sec. 501 (effective Sept. 30, 1996, pursuant to sec. 591); Pub.L. 104–208, sec. 304 (effective April 1, 1997, pursuant to sec. 309); Pub.L. 105–33, sec. 5581 (effective pursuant to sec. 5582)] (incorrectly codified as "cancellation of removal under section 240A of such Act [8 U.S.C. Section 1229b (as in effect prior to April 1, 1997),"

4. status as a spouse or child of a United States citizen pursuant to clause (I) of Section 204(a)(1)(A) of the INA (8 U.S.C., Section 1154(a)(1)(A)(I)) or classification pursuant to clause (I) of Section 204(a)(1)(B) of the INA (8 U.S.C., Section 1154(a)(1)(B)(I)), or

5. cancellation of removal pursuant to section 240A(b)(2) of the INA (8 U.S.C., Section 1229b(b)(2)).

(D) For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

(9) An alien who meets all of the conditions of subparagraphs (A), (B), (C), (D) and (E) below:

(A) The alien has a child who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent consented or acquiesced to such battery or cruelty. For purposes of this subsection, the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered as acts of violence.

(B) The alien did not actively participate in such battery or cruelty.

(C) There is a substantial connection between such battery or cruelty and the need for the benefits to be provided in the opinion of the Office of Statewide Health Planning and Development. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:

1. The benefits are needed to enable the alien's child to become self-sufficient following separation from the abuser.

2. The benefits are needed to enable the alien's child to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien's child from the abuser.

3. The benefits are needed due to a loss of financial support resulting from the alien's child's separation from the abuser.

4. The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien's child to lose his or her job or to earn less or to require the alien's child to leave his or her job for safety reasons.

5. The benefits are needed because the alien's child requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

6. The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien's child's parent's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into day care for fear of being found by the abuser).

7. The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

8. The benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien's child and/or to care for any resulting children.

9. Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien's child had when living with the abuser.

(D) The alien meets the requirements of subsection (c)(8)(C) above.

(E) For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

(10) An alien child who meets all of the conditions of subparagraphs (A), (B), and (C) below:

(A) The alien child resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent's spouse or by a member of the spouse's family residing in the same household as the parent and the spouse consented or acquiesced to such battery or cruelty. For purposes of this subsection, the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence.

(B) There is a substantial connection between such battery or cruelty and the need for the benefits to be provided in the opinion of the Office of Statewide Health Planning and Development. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:

1. The benefits are needed to enable the alien child's parent to become self-sufficient following separation by the abuser.

2. The benefits are needed to enable the alien child's parent to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien child's parent from the abuser.

3. The benefits are needed due to a loss of financial support resulting from the alien child's parent's separation from the abuser.

4. The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien child's parent to lose his or her job or to earn less or to require the alien child's parent to leave his or her job for safety reasons.

5. The benefits are needed because the alien child's parent requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

6. The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien child's parent's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into day care for fear of being found by the abuser).

7. The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

8. The benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien child's parent and/or to care for any resulting children.

9. Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien child's parent had when living with the abuser.

(C) The alien child meets the requirements of subsection (c)(8)(C) above.

(d) For purposes of this section, "nonimmigrant" is defined the same as in Section 101(a)(15) of the INA (8 U.S.C., Section 1101(a)(15)).

(e) For purposes of establishing eligibility for a scholarship, loan or loan repayment as set forth in Chapter 5 of Part 3 of Division 107 of the Health and Safety Code (otherwise known as those programs administered by the Minority Health Professions Education Foundation), all of the following must be met:

(1) The applicant must declare himself or herself to be a citizen of the United States, a qualified alien under subsection (c), a nonimmigrant alien under subsection (d), or an alien paroled into the United States for less than one year under Section 212(d)(5) of the INA (8 U.S.C., Section 1182(d)(5)). The applicant shall declare that status through use of the "Statement of Citizenship, Alienage, and Immigration Status for State Public Benefits," Form 1A, which is printed in its entirety in Section 97771.

(2) The applicant must present documents of a type acceptable to the Immigration and Naturalization Service (INS) which serve as reasonable evidence of the applicant's declared status. Documents meeting this definition or other acceptable evidence are listed in Section 97772. A document must be an original or certified copy. The Office will make every effort to return any documents sent to the Office within 60 days of receipt. A fee receipt from the INS for replacement of a lost, stolen, or unreadable INS document is reasonable evidence of the alien's declared status.

(3) The applicant must complete and sign Form 1A.

(4) Where the documents presented do not on their face appear to be genuine or to relate to the individual presenting them, the government entity that originally issued the documents should be contacted for verification. With regard to naturalized citizens and derivative citizens presenting certificates of citizenship and aliens, the INS is the appropriate government entity to contact for verification. The Office of Statewide Health Planning and Development shall request verification from the INS by filing INS Form G-845 with copies of the pertinent documents provided by the applicant with the local INS office. If the applicant has lost his or her original documents or presents expired documents or is unable to present any documentation evidencing his or her immigration status, the applicant shall be referred to the local INS office to obtain documentation.

(5) The type of documentation referred to the INS for verification pursuant to INS Form G-845 shall include the following:

(A) The document presented indicates immigration status but does not include an alien registration or alien admission number.

(B) The document is suspected to be counterfeit or to have been altered.

(C) The document includes an alien registration number in the A60 000 000 (not yet issued) or A80 000 000 (illegal border crossing) series.

(D) The document is one of the following: an INS Form I–181b notification letter issued in connection with an INS Form I–181 Memorandum of Creation of Record of Permanent Residence, an Arrival–Departure Creation of Record of Permanent Residence, an Arrival–Departure Record (INS Form I–94) or a foreign passport stamped "PROCESSED FOR I–551, TEMPORARY EVIDENCE OF LAWFUL PERMANENT RESIDENCE" that INS issued more than one year before the date of application for a scholarship, loan or loan repayment.

(6) If the INS advises that the applicant has citizenship status or immigration status which makes him or her a qualified alien, a nonimmigrant or alien paroled for less than one year under section 212(d)(5) of the INA, the INS verification shall be accepted. If the INS advises that it cannot verify that the applicant has citizenship status or an immigration status that makes him or her a qualified alien, a nonimmigrant or an alien paroled for less than one year under section 212(d)(5) of the INA, benefits shall be denied and the applicant notified pursuant to the Office's regular procedures of his or her rights to appeal the denial of benefits pursuant to Article 6 (Section 97760).

(f) Pursuant to Section 434 of the PRWORA (8 U.S.C., Section 1644), where the Office of Statewide Health Planning and Development reasonably believes that an alien is unlawfully in the State based on the failure of the alien to provide reasonable evidence of the alien's declared status, after an opportunity to do so, said alien shall be reported to the Immigration and Naturalization Service.

(g) Provided that the alien has completed and signed Form 1A under penalty of perjury, eligibility for a scholarship, loan or loan repayment shall not be delayed, denied, reduced or terminated while the status of the alien is verified.

(h) Pursuant to Section 432(d) of the PRWORA (8 U.S.C, Section 1642 (d)), a nonprofit charitable organization that provides federal, state or local public benefits shall not be required to determine, verify, or otherwise require proof of eligibility of any applicant or beneficiary with respect to his or her immigration status or alienage.

(i) Nothing in this section shall be construed to withdraw eligibility for any program described in SECTION 411(b) OF THE PRWORA, 8 U.S.C., Section 1621(b).

(j) Any applicant who is determined to be ineligible pursuant to subsection (b) and (e) or who was made eligible for a scholarship, loan or loan repayment, whose services are terminated, suspended, or reduced pursuant to subsections (b) and (e), is entitled to a hearing, pursuant to Article 6 (Section 97760).

NOTE: Authority cited: Section 128360, Health and Safety Code. Reference: 8 U.S.C., Sections 1621, 1641 and 1642 and Chapter 5 of Part 3 of Division 107, Health and Safety Code.

HISTORY

1. New article 7 (sections 97770–97772) and section filed 3–16–98 as an emergency; operative 3–16–98 (Register 98, No. 12). Pursuant to Health and Safety Code section 128360, this regulation is exempt from repeal pursuant to Government Code section 11346.1(e), (f) and (g). For prior history of articles 7 and 8 (sections 97607.1 and 97608.1) see Register 91, No. 19.

§ 97771. Form 1A.

STATEMENT OF CITIZENSHIP, ALIENAGE, AND IMMIGRATION STATUS FOR STATE PUBLIC BENEFITS – FORM 1A

Print Name of Applicant (the applicant is the person who wants a scholarship, loan or loan repayment)	Date
Print name of Person acting for applicant, if any	Relationship to Applicant

STATE PUBLIC BENEFITS TO CITIZENS AND ALIENS

Citizens and nationals of the United States who meet eligibility requirements may receive a scholarship, loan or loan repayment and must fill out Sections A and D.

Aliens who meet all eligibility requirements may also receive a scholarship, loan or loan repayment and must fill out Sections A, B, or C, and D of this form.

SECTION A: CITIZENSHIP/IMMIGRATION STATUS DECLARATION

1. Is the applicant a citizen of the United States? Yes ☐ No ☐

If the answer to the above question is yes, where was he/she born? _____
(City/State)

2. To establish citizenship or nationality, please submit one of the documents on List A (attached hereto)

IF YOU ARE A CITIZEN OR NATIONAL OF THE UNITED STATES, GO DIRECTLY TO SECTION D. IF YOU ARE AN ALIEN, PLEASE COMPLETE SECTION B, OR, IF APPLICABLE, SECTION C.

SECTION B: ALIEN STATUS DECLARATION

IMPORTANT: Please indicate the applicant's alien status below, and submit documents evidencing such status. The alien status documents listed for each category are the most commonly used documents that the United States Immigration and Naturalization Service (INS) provides to aliens in those categories. You can provide other acceptable evidence of your alien status even if not listed below.

1. An alien lawfully admitted for permanent residence under the Immigration and Naturalization Act (INA). Evidence includes: ☐
   - INS Form I–551 (Alien Registration Receipt Card. Commonly known as a "green card"): or
   - Unexpired Temporary I–551 stamp in foreign passport or on INS Form I–94.

2. An alien who is granted asylum under section 208 of the INA ☐
   Evidence includes:
   - INS Form I–94 annotated with stamp showing grant of asylum under section 208 of the INA:
   - INS Form I–688 B (Employment Authorization Card) annotated "274a. 12(a)(5)":
   - INS Form I–766 (Employment Authorization Document) annotated "A5":
   - Grant letter from the Asylum Office of INS: or
   - Order of an immigration judge granting asylum.

3. A refugee admitted to the United States under section 207 of the INA. ☐
   Evidence includes:
   - INS Form I–94 annotated with stamp showing admission under s207 of the INA:
   - INS Form I–688B (Employment Authorization Card) annotated "274a. 12(a)(3)":

- INS Form I–766 (Employment Authorization Document) annotated "A3": or
- INS Form I–571 (Refugee Travel Document)

4. An alien paroled into the United States for at least one year under section 212(d)(5) of the INA. Evidence includes: ☐
   - INS Form I–94 with stamp showing admission for at least one year under section 212(d)(5) of the INA. (Applicant cannot aggregate periods of admission for less than one year to meet the one–year requirement.)

5. An alien whose deportation is being withheld under section 243(h) of the INA (as in effect immediately prior to September 30, 1996) or Section 241(b)(3) of such Act (as amended by section 305(a) of division C of Public Law 104–208). (Evidence includes: ☐
   - INS Form I–688B (Employment Authorization Card) annotated "274a. 12(a)(10)":
   - INS Form I–766 (Employment Authorization Document) annotated "A10": or
   - Order from an immigration judge showing deportation withheld under s243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under s241(b)(3) of the INA.

6. An alien who is granted conditional entry under section 203(a)(7) of the INA as in effect prior TO April 1, 1980. Evidence includes: ☐
   - INS Form I–94 with stamp showing admission under s203(a)(7) of the INA:
   - INS Form I–688 B (Employment Authorization Card) annotated "274a. 12(a)(3)": or
   - INS Form I–766 (Employment Authorization Document) annotated "A3":

7. An Alien who is a Cuban or Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980). Evidence includes: ☐
   - INS Form I–551 (Alien Registration Receipt Card. Commonly known as a "green card") with the coke CU6, CU7, or CH6:
   - Unexpired temporary I–551 stamp in foreign passport or on INS Form I–94 with the code CU6 or CU7: or
   - INS Form I–94 with stamp showing parole as "Cuba/Haitian Entrant" under Section 212(d)(5) of the INA.

8. An alien paroled into the United States for less than one year under section 212(d)(5) of the INA. (Evidence includes INS Form I–94 showing this status.) ☐

9. An Alien not in categories 1 through 8 who has been admitted to the United States for a limited period of time (a non–immigrant). Non–immigrants are persons who have temporary status for a specific purpose. (Evidence includes INS Form I–94 showing this status.) ☐

SECTION C: DECLARATION FOR BATTERED ALIENS

IMPORTANT: Complete this section if the applicant, the applicant's child or the applicant's child's parent has been battered or subjected to extreme cruelty in the United States.

1. Has the INS or the EOIR granted a petition or application filed by or on behalf of the applicant, the applicant's child, or the applicant's child's parent under the INA or found that a pending petition sets forth a prima facie case? Evidence includes one of the documents on List B (attached hereto) ☐

2. Has the applicant, the applicant's child, or the applicant's child's parent been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a spouse's or parent's family member living in the same house (where the spouse or parent consented to, or acquiesced in the battery or cruelty)? ☐

SECTION D:

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE ANSWERS I HAVE GIVEN ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Applicant's Signature: _____ Date: _____

Signature of Person
Acting For Applicant: _____ Date: _____

NOTE: Authority cited: Section 128360, Health and Safety Code. Reference: 8 U.S.C., Sections 1621, 1641 and 1642 and Chapter 5 of Part 3 of Division 107, Health and Safety Code.

HISTORY

1. New section filed 3–16–98 as an emergency; operative 3–16–98 (Register 98, No. 12). Pursuant to Health and Safety Code section 128360, this regulation is exempt from repeal pursuant to Government Code section 11346.1(e), (f) and (g).

§ 97772. Acceptable Documentation.

(a) LIST A

A person who is a citizen or national of the United States must submit the original or a certified copy of one of the following described documents in addition to completing Form 1A.

(1) Primary Evidence

(A) A Birth certificate showing birth in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands, unless the person was born to foreign diplomats residing in the United States.

Note: If the document shows that the individual was born in Puerto Rico, the U.S. Virgin Islands or the Northern Mariana Islands before these areas became part of the U.S., the individual may be a collectively naturalized citizen — see Paragraph C below.

(B) United States passport (except limited passports, which are issued for less than five years:

(C) Report of birth abroad of a U.S. citizen (FS–240)(issued by the Department of State to U.S. citizens):

(D) Certificate of Birth (FS–545) (issued by foreign service post) or Certification of Report of birth (DS–1350) (issued by the Department of State), copies of which are available from the Department of State:

(E) Certificate of Naturalization (N–550 or N–570) (issued by the INS through a Federal or State court, or through administrative naturalization after December 1990 to individuals who are individually naturalized: the N–570 is a replacement certificate issued when the N–550 has been lost or mutilated or the individual's name has been changed):

(F) Certificate of Citizenship (N–560 or N–561) (issued by the INS to individuals who derive U.S. citizenship through a parent: the N–561 is a replacement certificate issued when the N–560 has been lost or mutilated or the individual's name has been changed):

(G) United States Citizen Identification Card (I–197) (issued by the INS until April 7, 1983 to U.S. citizens living near the Canadian or Mexican Border who needed it for frequent border crossings) (formerly Form I–179, last issued in February 1974):

(H) Northern Mariana Identification Card (issued by the INS to collectively naturalized citizen of the U.S. who was born in the Northern Mariana Islands before November 3, 1986):

(I) Statement provided by a U.S. consular officer certifying that the individual is a U.S. citizen (this is given to an individual born outside the U. S. Who derives citizenship through a parent but does not have an FS–240, FS–545 or DS–1350): or

(J) American Indian Card with a classification code "KIC" and a statement on the back (identifying U.S. citizen members of the Texas Band of Kickapoos living near the U.S./Mexican border).

(2) Secondary Evidence

If the applicant cannot present one of the documents listed in A above, the following may be relied upon by the Office to establish U. S. Citizenship or nationality:

(A) Religious record recorded in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917)), American Samoa, Swain's Island or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction) within three months after birth showing that the birth occurred in such jurisdiction and the date of birth or the individual's age at the time the record was made:

(B) Evidence of civil service employment by the U.S. government before June 1, 1976:

(C) Early school records (preferably from the first school) showing the date of admission to the school, the child's date and place of birth, and the name(s) and place(s) of birth of the parent(s):

(D) Census record showing name, U.S. citizenship or a U. S. Place of birth, and date of birth or age of applicant:

(E) Adoption Finalization Papers showing the child's name and place of birth in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands, (unless the person was born to foreign diplomats residing in such a jurisdiction) or, where adoption is not finalized and the State or other jurisdiction listed above in which the child was born will not release a birth certificate prior to final adoption, a statement from a state–approved adoption agency showing the child's name and place of birth in one of such jurisdictions: or

(F) Any other document that establishes a U.S. place of birth or in some way indicates U. S. Citizenship (e.g., a contemporaneous hospital record of birth in that hospital in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands, (unless the person was born to foreign diplomats residing in such a jurisdiction).

(3) Collective Naturalization

If the applicant cannot present one of the documents listed in A or B above, the following will establish U.S. citizenship for collectively naturalized individuals:

(A) Puerto Rico:

1. Evidence of birth in Puerto Rico on or after April 11, 1899 and the applicant's statement that he or she was residing in the U.S., a U.S. possession or Puerto Rico on January 13, 1941: or

2. Evidence that the applicant was a Puerto Rican citizen and the applicant's statement that he or she was residing in Puerto Rico on March 1, 1917 and that he or she did not take an oath of allegiance to Spain.

(B) U.S. Virgin Islands:

1. Evidence of birth in the Virgin Islands and the applicant's statement of residence in the U.S., a U.S. possession or the U. S. Virgin Islands on February 25, 1927:

2. The applicant's statement indicating residence in the U.S. Virgin Islands as a Danish citizen on January 17, 1917 and residence in the U.S., a U.S. possession or the U.S. Virgin Islands on February 25, 1927, and that he or she did not make a declaration to maintain Danish citizenship: or

3. Evidence of birth in the U.S. Virgin Islands and the applicant's statement indicating residence in the U.S., a U.S. possession or territory or the Canal Zone on June 28, 1932.

(C) Northern Mariana Islands (NMI) (formerly part of the Trust Territory of the Pacific Islands (TTPI):

1. Evidence of birth in the NMI, TTPI citizenship and residence in the NMI, the U.S., or a U.S. territory or possesion on November 3, 1986 (NMI local time) and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time):

2. Evidence of TTPI citizenship, continuous residence in the NMI since before November 3, 1981 (NMI local time), voter registration prior to January 1, 1975 and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time): or

3. Evidence of continuous domicile in the NMI since before January 1, 1974 and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time). Note: If a person entered the NMI as a nonimmigrant and lived in the NMI since January 1, 1974, this does not constitute continuous domicile and the individual is not a U.S. citizen.

(4) Derivative Citizenship

If the applicant cannot present one of the documents listed in A, B, or C above, the following may be relied upon by the Office to establish U.S. citizenship or nationality.

(A) Applicant born abroad to two U.S. citizen parents:

1. Evidence of the U.S. citizenship of the parents and the relationship of the applicant to the parents, and evidence that at least one parent resided in the U. S. Or an outlying possession prior to the applicant's birth.

(B) Applicant born abroad to a U.S. citizen parent and a U. S. non–citizen national parent:

1. Evidence that one parent is a U.S. citizen and that the other is a U.S. non–citizen national, evidence of the relationship of the applicant to the U. S. Citizen parent, and evidence that the U.S. citizen parent resided in the U.S., a U.S. possession, American Samoa or Swain's Island for a period of at least one year prior to the applicant's birth.

(C) Applicant born out of wedlock abroad to a U.S. citizen mother:

1. Evidence of the U.S. citizenship of the mother, evidence of the relationship to the applicant and, for births on or before December 24, 1952, evidence that the mother resided in the U.S. prior to the applicants birth or, for births after December 24, 1952, evidence that the mother had resided, prior to the child's birth, in the U.S. or a U.S. possession for a period of one year.

(D) Applicant born in the Canal Zone or the Republic of Panama:

1. A Birth certificate showing birth in the Canal Zone on or after February 26, 1904 and before October 1, 1979 and evidence that one parent was a U.S. citizen at the tome of the applicant's birth: or

2. A birth certificate showing birth in the Republic of Panama on or after February 26, 1904 and before October 1, 1979 and evidence that at least one parent was a U.S. citizen and employed by the U.S. government or the Panama Railroad Company or its successor in title.

(E) If an applicant still believes he or she is a U.S. citizen and has none of the listed documentation, he or she should go to the local INS Office or the State Department for a citizenship determination.

(5) Adoption of Foreign–Born Child by U.S. Citizen

(A) If the birth certificate shows a foreign place of birth and the applicant cannot be determined to be a naturalized citizen under any of the above criteria, the applicant may obtain other evidence of U.S. citizenship:

(6) U.S. Citizenship by Marriage

(A) Evidence of U.S. citizenship of the husband, and evidence showing the marriage occured before September 22, 1922.

(b) LIST B

If the applicant is an alien claiming eligibility on Form 1A, at least one of the following documents must accompany the declaration:

(1) Documentation Evidencing an Appproved Petition or Application

(A) INS Form I–551 ("resident Alien Card" or Alien Registration Receipt Card", commonly known as a "green Card") with one of the following INS class of admission ("COA") codes printed on the front of a white card or the back of a pink card: AR1, AR6, C20 through C29, CF1, CF2, CR1, CR2, CR6, CR7, CX1 through CX3, CX6 through CX8, F20 through F29, FX1 through FX3, FX6 through FX8, IF1, IF2, IR1 through IR4, IR6 through IR9, IW1, IW2, IW6, IW7, MR6, MR7, P21 through P23, or P26 through P28.

(B) INS Form I–551 with one of the following COA codes stamped on the lower left side of the back of a pink card: IB1 through IB3, IB6 through IB8, B11, B12, B16, B17, B20 through B29, B31 through B33, B36 through B38, BX1 through BX3, or BX6 through BX8.

(C) INS Form I–551 with COA code Z13.

(D) Unexpired Temporary I–551 stamp in foreign passport or on INS Form I–94 with one of the COA codes specified in the Subsections (1)–(3), above.

(E) INS Form I–797 indicating approval of an INS I–130 petition (only I–130 petitions describing the following relationships may be accepted: husbands or wives of U.S. citizens or Lawful Permanent Residents (LPRs), unmarried children under 21 years old of U.S. citizens or LPRs, or unmarried children 21 or older of LPRs), or approval of an I–360 petition (only I–360 approvals based on status as a widow/widower of a U.S. Citizen or as a self–petitioning spouse or child of an abusive U.S. citizen or LPR may be accepted).

(F) A final order of an Immigration Judge or the Board of Immigration Appeals granting suspension of deportation under section 244(a)(3) of the INA as in effect prior to April 1, 1997, or cancellation of removal under section 240A(b)(2) of the INA.

(2) Documentation Demonstrating that the Applicant has Established a Prima Facie Case

(A) INS Form I–797 indicating that the applicant has established a prima facie case: or

(B) An immigration court or Board of Immigration Appeals order indicating that the applicant has established a prima facie case for suspension of deportation under INA section 244(a)(3) as in effect prior to April 1, 1997, or cancellation of removal under section 240A(b)(2) of the INA.

(3) Documentation Indicating that the Applicant has Filed a Petition or that a Petition has been Filed on the Applicant's Behalf, as Applicable, but with no Evidence of Approval of the Petition or Establishment of a Prima Facie Case

(A) INS Form I–797 indicating filing of the I–360 petition by "self–petitioning spouse [or child] of abusive U.S.C. or LPR," a file–stamped copy of the petition, or other document demonstrating filing (including a cash register or computer–generated receipt indicating filing of Form I–360).

(B) INS Form I–797 indicating filing of the I–360 petition.

(4) Documentation Indicating that the Applicant has filed a Petition or that a Petition was filed on His or Her Behalf, as Applicable

(A) INS Form I–797 indicating filing of the I–130 petition, a file–stamped copy of the petition, or other document demonstrating filing (including a cash register or computer–generated receipt indicating filing of Form I–130).

(B) For self–petitioning widows or widowers: a file–stamped copy of the INS I–360 petition, or another document demonstrating filing (including a cash register or computer–generated receipt indicating filing of Form I–360).

(5) Documentation Indicating that the INS has Initiated Deportation or Removal Proceedings in which Relief may be available

(A) An "Order to Show Cause":

(B) A "Notice to Appear": or

(C) A "Notice of Hearing in Deportation Proceedings."

(6) Minimal or no Documentation Regarding the Claimed Filing

(A) If the applicant has some documentation, but it is insufficient to demonstrate filing, establishment of prima facie case or approval of a petition, the Office will fax the INS Request Form on agency letterhead, as well as a copy of any document(s) provided by the applicant, to the INS Vermont Service Center in order to determine the applicant's status. If the applicant has no documentation, but is certain that a petition has been filed by his or her spouse or parent, the applicant should fax the INS Request Form to the INS Vermont Service Center.

NOTE: Authority cited: Section 128360, Health and Safety Code. Reference: 8 U.S.C., Sections 1621, 1641 and 1642 and Chapter 5 of Part 3 of Division 107, Health and Safety Code.

HISTORY

1. New section filed 3–16–98 as an emergency; operative 3–16–98 (Register 98, No. 12). Pursuant to Health and Safety Code section 128360, this regulation is exempt from repeal pursuant to Government Code section 11346.1(e), (f) and (g).

Chapter 15. Associate Degree Nursing Scholarship Program

§ 97800. Chapter Definitions.

The following definitions shall apply to the regulations contained in this Chapter:

(a) "Academic year" means a period of time, usually eight or nine months, during which a full–time college or university student would normally be expected to complete the equivalent of two semesters or three quarters of instruction.

(b) "Associate degree nursing program" means an education program with a two or three year curriculum, which includes nursing theory and clinical coursework that leads to an associate degree of nursing. Graduates of associate degree programs are eligible to take the state board examination to become registered nurses in California.

(c) "Contract" means a written agreement between the Office and a recipient of a scholarship that obligates the recipient, in exchange for scholarship(s), to practice their nursing profession for a specified period of time after graduation in a medically underserved area in California.

(d) "Cultural and linguistic skills and abilities" means possessing cultural and linguistic competence. Cultural and linguistic competency means the ability to understand and respond effectively to the cultural and linguistic needs brought by patients to health care encounters.

(e) "Direct patient care" means the provision of health care services directly to individuals being treated for, or suspected of having, physical or mental illness. Direct patient care includes preventative care. The first line supervision of direct patient care shall be considered "direct patient care."

(f) "Director" means the Director of the Office of Statewide Health Planning and Development.

(g) "Economic need" means having an income of two hundred (200) percent or less of federal poverty index based on family size.

(h) "Federal poverty index" means the federal poverty threshold updated annually by the U.S. Department of Commerce, Bureau of the Census.

(i) "Foundation" means the Health Professions Education Foundation.

(j) "Full–time student" means a student who is enrolled in a semester, trimester, or quarter program of not less than twelve (12) credit hours or units or their equivalent, and can reasonably expect to graduate, if the student progresses in good standing, in the recognized number of academic years it takes a full–time student to graduate.

(k) "Medically underserved area" means any of the following:

(1) A Medically Underserved Area or Medically Underserved Population (MUA or MUP) as designated by the U.S. Department of Health and Human Services, Health Resources and Services Administration, Bureau of Health Professions' Shortage Designation Branch.

(2) A Primary Care Health Professional Shortage Area (HPSA) as designated by the U.S. Department of Health and Human Services, Health Resources and Services Administration, Bureau of Health Professions' Shortage Designation Branch.

(3) A California Primary Care Shortage Area as designated by the California Healthcare Workforce Policy Commission.

(4) A facility determined by the Director pursuant to section 128385 of the Health and Safety Code to be an eligible county health facility or an eligible state–operated health facility.

(*l*) "Office" means the Office of Statewide Health Planning and Development.

(m) "Part–time student" means a student who is enrolled in a semester, trimester, or quarter program of not less than six (6) credit hours or units or their equivalent.

(n) "Registered nurse" means a person licensed to practice nursing under the Nursing Practice Act (Business and Professions Code section 2700 et seq.) and who is authorized to place the letters "R.N." after their name.

(o) "Registered Nurse Education Fund" means the fund established pursuant to section 128400 of the Health and Safety Code.

(p) "Reside" refers to one's place of residence as described in section 244 of the Government Code.

(q) "Scholarship" means financial assistance provided to an eligible individual who agrees, in return for the assistance, to practice their nursing profession for a specified period of time in a medically underserved area in California.

(r) "Service obligation" means the contractual obligation agreed to by a recipient of a scholarship where the recipient agrees to practice their profession for a specified period of time in a medically underserved area in California.

NOTE: Authority cited: Section 128401, Health and Safety Code. Reference: Section 128401, Health and Safety Code.

HISTORY

1. New chapter 15 (sections 97800–97890) and section filed 8–10–2005; operative 8–10–2005 pursuant to Government Code section 11343.4(c) (Register 2005, No. 32).

§ 97810. Available Funding.

The Office shall award scholarships to eligible applicants, subject to the availability of funds allocated by the Foundation.

NOTE: Authority cited: Section 128401, Health and Safety Code. Reference: Section 128401, Health and Safety Code.

HISTORY

1. New section filed 8–10–2005; operative 8–10–2005 pursuant to Government Code section 11343.4(c) (Register 2005, No. 32).

§ 97820. Duration of Scholarship Awards.

(a) The Office will award scholarships under this Chapter for not more than one (1) academic year at a time.

(b) The Office may enter into additional scholarship contracts if:

(1) The recipient applies for an additional scholarship;

(2) The additional scholarship will not extend the total period of financial assistance beyond three (3) academic years or quarter/semester equivalent; and,

(3) The recipient is reported by the program, school, or institution to have maintained a cumulative grade point average of 2.0 or above.

NOTE: Authority cited: Section 128401, Health and Safety Code. Reference: Section 128401, Health and Safety Code.

HISTORY

1. New section filed 8–10–2005; operative 8–10–2005 pursuant to Government Code section 11343.4(c) (Register 2005, No. 32).

§ 97830. Permissible Scholarship Costs.

(a) A scholarship for each academic period may consist of:

(1) Tuition (shall not exceed the amount actually charged by a participating school or institution);

(2) Reasonable educational expenses including required fees, books, supplies, and educational equipment; and

(3) A monthly stipend.

(b) The total scholarship amount per academic year shall not exceed the estimated annual average cost per student of associate degree nursing programs throughout California for that academic year, as provided by the California Student Aid Commission.

NOTE: Authority cited: Section 128401, Health and Safety Code. Reference: Section 128401, Health and Safety Code.

HISTORY

1. New section filed 8–10–2005; operative 8–10–2005 pursuant to Government Code section 11343.4(c) (Register 2005, No. 32).

§ 97840. Application Process.

(a) Each person desiring a scholarship shall submit a completed application, which shall include information and documentation to establish the following:

(1) County of residence;

(2) Acceptance to or enrollment as a part–time or full–time student in an associate degree nursing program, verified by nursing program director or designee;

(3) Official transcripts for all coursework related to nursing education;

(4) Health–related work experience;

(5) Community background, including current or prior residence in a medically underserved area in California;

(6) Career goals;

(7) Economic need, documented by either a current:

(A) Student Aid Report (SAR) or

(B) Federal tax return and all W–2s;

(8) The scholarship amount requested with justification for amount requested;

(9) Length of time before the applicant would be able to provide services in a medically underserved area in California where the applicant would propose to practice;

(10) Community involvement, including extracurricular activities;

(11) Commitment to practice as a registered nurse for a specific period of time in a medically underserved area in California;

(12) Cultural and linguistic skills and abilities;

(13) Two (2) letters of recommendation, dated within six (6) months of the application deadline, including author's name, mailing address, phone number, and relationship to applicant. It is recommended that at

least one (1) letter be from a faculty member. It is useful if letters indicate an applicant's academic performance, work experience, community service, volunteer activities, memberships in clubs, or other experience that indicates the applicant's likelihood of program success.

(14) A personal statement indicating qualifications, attributes, or characteristics that would increase the likelihood the applicant would continue to practice in a medically underserved area in California after service obligation has ended; and

(15) Any other information the applicant believes is relevant, such as certificates, honors, and awards.

(b) There shall be two (2) scholarship application deadlines per year, March 24 and September 11.

(1) Applications for scholarships for academic periods that begin on or after August 1 and by December 31 shall be filed by the previous March 24.

(2) Applications for scholarships for academic periods that begin on or after January 1 and by July 31 shall be filed by the previous September 11.

NOTE: Authority cited: Section 128401, Health and Safety Code. Reference: Section 128401, Health and Safety Code.

HISTORY

1. New section filed 8–10–2005; operative 8–10–2005 pursuant to Government Code section 11343.4(c) (Register 2005, No. 32).

§ 97850. Selection Process.

(a) Only persons who reside in a county in need and who are accepted to or enrolled as a part–time or full–time student in an associate degree nursing program may be eligible for this scholarship program.

(b) Consideration shall be given to:

(1) An applicant's economic need; and

(2) Applicants who demonstrate cultural and linguistic skills and abilities.

(c) In deciding which applicants are eligible to receive scholarships, the Foundation shall also consider those factors which it determines indicate the greatest probability of program success and the nursing workforce needs of the state in general and of each medically underserved area.

(d) An applicant who has signed a contract or written agreement with another entity to practice their health profession in exchange for financial assistance, including tuition reimbursement, scholarship, loans, or loan repayment, shall be ineligible to receive a scholarship under this Chapter until the obligation owed to this other entity has been fulfilled.

NOTE: Authority cited: Section 128401, Health and Safety Code. Reference: Section 128401, Health and Safety Code.

HISTORY

1. New section filed 8–10–2005; operative 8–10–2005 pursuant to Government Code section 11343.4(c) (Register 2005, No. 32).

§ 97860. Obligations of the Scholarship Recipient.

(a) Each recipient shall agree to a service obligation to practice nursing in direct patient care for a specified period of time in a medically underserved area in California.

(b) The period that the recipient is obligated to serve shall be twenty four (24) months.

NOTE: Authority cited: Section 128401, Health and Safety Code. Reference: Section 128401, Health and Safety Code.

HISTORY

1. New section filed 8–10–2005; operative 8–10–2005 pursuant to Government Code section 11343.4(c) (Register 2005, No. 32).

§ 97870. Commencement of Service Obligation.

Each recipient shall commence the practice of nursing in a medically underserved area in California within six (6) months after completing their associate degree nursing program and upon obtaining their license with the Board of Registered Nursing.

NOTE: Authority cited: Section 128401, Health and Safety Code. Reference: Section 128401, Health and Safety Code.

HISTORY

1. New section filed 8–10–2005; operative 8–10–2005 pursuant to Government Code section 11343.4(c) (Register 2005, No. 32).

§ 97880. Penalties for Failure to Comply with Requirements of Program.

Penalties for failure to comply with the requirements of this program shall be as specified in Section 97737 of Chapter 14 of this Division, except that total repayment shall be required in monthly installments within seven (7) years.

NOTE: Authority cited: Section 128401, Health and Safety Code. Reference: Section 128401, Health and Safety Code.

HISTORY

1. New section filed 8–10–2005; operative 8–10–2005 pursuant to Government Code section 11343.4(c) (Register 2005, No. 32).

§ 97890. Exceptions to Service or Payment Obligations.

Service or payment obligation may be cancelled, waived, suspended, reduced, or delayed as specified in Section 97726 of Chapter 14 of this Division.

NOTE: Authority cited: Section 128401, Health and Safety Code. Reference: Section 128401, Health and Safety Code.

HISTORY

1. New section filed 8–10–2005; operative 8–10–2005 pursuant to Government Code section 11343.4(c) (Register 2005, No. 32).

Chapter 16. Vocational Nurse Scholarship and Loan Repayment Program

Article 1. General Provisions

§ 97900. Chapter Definitions.

The following definitions shall apply to the regulations contained in this Chapter:

(a) "Academic year" means a period of time, usually eight or nine months, which a full–time college or university student would normally be expected to complete the equivalent of two semesters or three quarters of instruction.

(b) "Associate degree nursing program" means an education program with a two or three year curriculum that includes nursing theory and clinical coursework that leads to an associate degree of nursing. Graduates of associate degree nursing programs are eligible to take the state board examination to become registered nurses in California.

(c) "Contract" means a written agreement between the Office and a recipient of a scholarship or loan repayment, which obligates the recipient, in exchange for financial assistance, to practice their profession in a medically underserved area in California for a specified period of time after graduation.

(d) "Direct patient care" means the provision of health care services directly to individuals being treated for, or suspected of having, physical or mental illness. Direct patient care includes preventative care. The first line supervision of direct patient care shall be considered "direct patient care."

(e) "Director" means the Director of the Office of Statewide Health Planning and Development.

(f) "Educational loan" means a loan of money by a commercial lender or a government entity, which requires repayment with interest, and was obtained by an individual for the purpose of defraying the costs associated with vocational nursing education.

(g) "Full–time student" means a student who is enrolled in a semester, trimester, or quarter program of not less than twelve (12) credit hours or units or their equivalent, and can reasonably expect to graduate, if the student progresses in good standing, in the recognized number of academic years it takes a full–time student to graduate.

(h) "Part–time student" means a student who is enrolled in a semester, trimester, or quarter program of not less than six (6) credit hours or units or their equivalent.

(i) "Medically underserved area" means any of the following:

(1) A Medically Underserved Area or Medically Underserved Population (MUA or MUP) as designated by the U.S. Department of Health and

Human Services, Health Resources and Services Administration, Bureau of Health Professions' Shortage Designation Branch.

(2) A Primary Care Health Professional Shortage Area (HPSA) as designated by the U.S. Department of Health and Human Services, Health Resources and Services Administration, Bureau of Health Professions' Shortage Designation Branch.

(3) A California Primary Care Shortage Area as designated by the California Healthcare Workforce Policy Commission.

(4) A facility determined by the Director to have a shortage of nursing personnel under section 128385 of the Health and Safety Code.

(j) "Office" means the Office of Statewide Health Planning and Development.

(k) "Registered Nurse Education Program" (RNEP) means the program established pursuant to Section 128385 of the Health and Safety Code.

(*l*) "Scholarship" means financial assistance provided to an eligible individual who agrees, in return for the assistance, to practice their nursing profession for a specified period of time in a medically underserved area in California.

(m) "Service obligation" means the contractual obligation agreed to by a recipient of a scholarship or loan repayment where the recipient agrees to practice their nursing profession for a specified period of time in a medically underserved area in California.

(n) "Vocational nurse" means a person licensed to practice nursing under the Vocational Nursing Practice Act (commencing with Business and Professions Code Section 2840).

(o) "Vocational nursing program" means a fourteen- to twenty four-month education program, which includes nursing theory and clinical coursework that leads to the state certification exam to become a licensed vocational nurse.

(p) "Vocational Nurse Education Fund" means the fund established pursuant to Section 128500 of the Health and Safety Code.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Sections 128350 and 128485, Health and Safety Code.

HISTORY

1. New chapter 16 (articles 1–3, sections 97900–97927), article 1 (sections 97900–97902) and section filed 7–24–2006; operative 7–24–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 30).

§ 97901. Available Funding.

The Office shall award scholarships and loan repayments to eligible applicants, subject to the availability of funds in the Vocational Nurse Education Fund.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Sections 128350, 128485 and 128500, Health and Safety Code.

HISTORY

1. New section filed 7–24–2006; operative 7–24–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 30).

§ 97902. Exceptions to Service or Payment Obligations.

Service or payment obligations may be cancelled, waived, suspended, reduced, or delayed as specified in Section 97726 of Chapter 14 of this Division.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Sections 128345, 128350 and 128485, Health and Safety Code.

HISTORY

1. New section filed 7–24–2006; operative 7–24–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 30).

Article 2. Scholarship Program Provisions

§ 97910. Scholarship Eligibility.

(a) An applicant for a vocational nurse scholarship must be:

(1)(A) Accepted or enrolled as a part–time or full–time student in a vocational nursing program that is accredited by the Board of Vocational Nursing and Psychiatric Technicians, or

(B) A licensed vocational nurse accepted or enrolled as a part–time or full–time student in an associate degree nursing program that is accredited by the Board of Registered Nursing.

(2) Willing to commit to serve in direct patient care in a medically underserved area in California for twenty–four months.

(b) A licensed vocational nurse applicant who is eligible to apply for the Registered Nurse Education Program (RNEP) must first apply for that program, and if rejected, will then be considered eligible to apply for the Vocational Nurse scholarship under this Chapter. Applications for the Vocational Nurse scholarship must be made within twelve (12) months of rejection for the RNEP.

(c) An applicant who has signed a contract or written agreement with another entity to practice their vocational nursing profession in exchange for financial assistance, including tuition reimbursement, scholarship, loans, or loan repayment, shall be ineligible to receive a scholarship under this Chapter until the obligation to this other entity has been fulfilled.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Sections 128350 and 128485, Health and Safety Code.

HISTORY

1. New article 2 (sections 97910–97917) and section filed 7–24–2006; operative 7–24–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 30).

§ 97911. Duration and Terms of Scholarship Awards.

(a) The Office will award a scholarship for not more than one (1) academic year at a time.

(b) The Office may enter into an additional scholarship contract if:

(1) The recipient applies for an additional scholarship;

(2) The additional scholarship will not extend the total period of financial assistance beyond three (3) academic years or quarter/semester equivalent; and

(3) The ongoing academic performance of the recipient is reported by the program, school, or institution to be a minimum cumulative grade point average of 2.0.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Sections 128350 and 128485, Health and Safety Code.

HISTORY

1. New section filed 7–24–2006; operative 7–24–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 30).

§ 97912. Permissible Scholarship Costs.

(a) A scholarship for each academic year may consist of:

(1) Tuition; and

(2) Reasonable educational expenses, including required fees, books, supplies, and educational equipment.

(b) For a scholarship that supports the vocational nursing student, the total scholarship amount per year shall not exceed the estimated annual average cost to attend vocational programs throughout California for that academic year, as provided by the California Student Aid Commission.

(c) For a scholarship that supports the licensed vocational nurse who is an associate degree nursing student, the total scholarship amount per year shall not exceed the estimated annual average cost to attend associate degree programs throughout California for that academic year, as provided by the California Student Aid Commission.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Sections 128350 and 128485, Health and Safety Code.

HISTORY

1. New section filed 7–24–2006; operative 7–24–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 30).

§ 97913. Scholarship Application Process.

(a) Each person desiring a scholarship shall submit a completed application.

(b) For an applicant who is a vocational nursing student, a completed scholarship application shall include information and documentation to establish the following:

(1) Acceptance to or enrollment as a part–time or full–time student in a vocational nursing program;

(2) Official transcripts for highest educational level obtained;

(3) Health–related work experience;

(4) Community background, including current or prior residence in a medically underserved area in California;

(5) Career goals;

(6) Financial need, documented by either a current:

(A) Student Aid Report (SAR) or

(B) Federal tax return and all W–2s;

(7) The scholarship amount requested with justification for amount requested;

(8) Expected date of graduation and vocational nurse licensure;

(9) Community involvement, including extracurricular activities;

(10) Commitment to practice as a licensed vocational nurse for twenty–four months in a medically underserved area in California;

(11) Two (2) letters of recommendation, dated within six (6) months of the application deadline, including author's title, employer, mailing address, phone number, and relationship to applicant. It is recommended that at least one (1) letter be from a faculty member. It is useful if letters indicate an applicant's academic performance, work experience, community service, volunteer activities, memberships in clubs, or other experience that indicate the applicant's likelihood of program success;

(12) A personal statement indicating qualifications, attributes, or characteristics that would increase the likelihood the applicant would continue to practice in a medically undeserved area in California after service obligation has ended; and

(13) Any other information the applicant believes is relevant, such as certificates, honors and awards.

(c) For an applicant who is a licensed vocational nurse accepted into or enrolled in an associate degree nursing program, a completed scholarship application shall include information and documentation to establish the following:

(1) Acceptance to or enrollment as a part–time or full–time student in an associate degree nursing program;

(2) Proof of vocational nursing licensure, including license number issued by the California Board of Vocational Nurses and Psychiatric Technicians;

(3) Official copy of transcripts for all coursework related to nursing education;

(4) Health–related work experience;

(5) Community background, including current or prior residence in a medically underserved area in California;

(6) Career goals;

(7) Financial need, documented by either a current:

(A) Student Aid Report (SAR) or

(B) Federal tax return and all W–2s;

(8) Expected date of graduation and registered nurse licensure;

(9) Length of time before the applicant would be able to provide services in a medically underserved area in California where the applicant would propose to practice;

(10) Community involvement, including extracurricular activities;

(11) Commitment to practice in direct patient care for twenty–four months in a medically underserved area in California;

(12) Two (2) letters of recommendation, dated within six (6) months of the application deadline, including author's name, mailing address, phone number, and relationship to applicant. It is recommended that at least one (1) letter be from a faculty member. It is useful if letters indicate an applicant's academic performance, work experience, community service, volunteer activities, memberships in clubs, or other experience that indicates the applicant's likelihood of program success.

(13) A personal statement indicating qualifications, attributes, or characteristics that would increase the likelihood the applicant would continue to practice in a medically undeserved area in California after service obligation has ended; and

(14) Any other information the applicant believes is relevant, such as certificates, honors and awards.

(d) There shall be two (2) scholarship application deadlines per year, March 24 and September 11.

(1) Applications for scholarships for academic periods that begin on or after August 1 and by December 31 shall be filed by the previous March 24.

(2) Applications for scholarships for academic periods that begin on or after January 1 and by July 31 shall be filed by the previous September 11.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Sections 128350 and 128485, Health and Safety Code.

HISTORY

1. New section filed 7–24–2006; operative 7–24–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 30).

§ 97914. Selection Process.

In selecting scholarship recipients, the Health Professions Education Foundation shall take into consideration those factors that it determines indicate the greatest probability of program success and the nursing or vocational nursing workforce needs of the state in general and of each medically underserved area.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Sections 128345, 128350, and 128485, Health and Safety Code.

HISTORY

1. New section filed 7–24–2006; operative 7–24–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 30).

§ 97915. Disbursement of Scholarship Award.

(a) The scholarship award shall be issued on behalf of the recipient to the educational institution where the recipient is enrolled.

(b) The educational institution shall deduct tuition and other fees charged by the school and then issue a check for any balance of the scholarship award to the recipient.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Sections 128350 and 128485, Health and Safety Code.

HISTORY

1. New section filed 7–24–2006; operative 7–24–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 30).

§ 97916. Service Obligation Provisions for Scholarship Recipient.

(a) Each scholarship recipient shall agree to a service obligation of twenty–four months to practice nursing in direct patient care in a medically underserved area in California. The service obligation must be fulfilled on a full–time basis. "Full–time" basis means a work week of not less than thirty–two (32) hours.

(b) Each vocational nursing scholarship recipient shall commence the practice of vocational nursing in a medically underserved area in California within twelve (12) months after completing their vocational nursing program and obtaining their license with the Board of Vocational Nurses and Psychiatric Technicians.

(c) Each licensed vocational nurse scholarship recipient who is an associate degree nursing student shall commence the practice of nursing in a medically underserved area in California within six (6) months after completing their associate degree nursing program and obtaining their license with the Board of Registered Nursing.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Sections 128350 and 128485, Health and Safety Code.

HISTORY

1. New section filed 7–24–2006; operative 7–24–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 30).

§ 97917. Penalties for Failure to Comply with Requirements of Program.

(a) Penalties for failure to comply with the requirements of this scholarship program shall be as specified in Section 97737 of Chapter 14 of this Division, except that total repayment shall be required in monthly installments within seven (7) years.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Sections 128350 and 128485, Health and Safety Code.

HISTORY

1. New section filed 7–24–2006; operative 7–24–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 30).

Article 3. Loan Repayment Program Provisions

§ 97920. Loan Repayment Eligibility.

(a) To be eligible for loan repayment, an applicant must:

(1) Be a licensed vocational nurse, and

(2) Practice as a vocational nurse in direct patient care in a medically underserved area of California.

(b) An applicant who has signed a contract or written agreement with another entity to practice their health profession in exchange for financial assistance, including tuition reimbursement, scholarship, loans, or loan repayment, shall be ineligible to receive a loan repayment under this Chapter until the obligation to this other entity has been fulfilled.

NOTE: Authority cited: Sections127010 and 127015, Health and Safety Code. Reference: Sections 128350 and 128485, Health and Safety Code.

HISTORY

1. New article 3 (sections 97920–97927) and section filed 7–24–2006; operative 7–24–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 30).

§ 97921. Loan Repayment Awards.

(a) The Office will contract to repay a specified amount, on behalf of the program recipient, toward the principal, interest, and related expenses on outstanding governmental and commercial educational loans, not in default, related to the recipient's vocational nurse education.

(b) A loan repayment award amount shall not exceed the estimated annual average cost to attend vocational programs throughout California, as provided by the California Student Aid Commission, for the academic year in which the repayment application has been submitted.

(c) The loan repayment amount awarded shall not exceed the total amount of debt owed on outstanding governmental and commercial educational loans for vocational nurse education.

(d) The Office may agree to repay all of a particular loan, or only partially repay a loan.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Sections 128350 and 128485, Health and Safety Code.

HISTORY

1. New section filed 7–24–2006; operative 7–24–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 30).

§ 97922. Loan Repayment Contracts.

(a) The Office will enter into one (1) loan repayment contract per recipient at a time.

(b) The Office may enter into an additional loan repayment contract if:

(1) The recipient applies for an additional loan repayment;

(2) The recipient has fulfilled the terms and conditions of the previously–awarded loan repayment contract; and

(3) The recipient otherwise continues to be eligible to participate in the program.

(c) The Office shall not award more than three (3) contracts to any recipient.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Sections 128350 and 128485, Health and Safety Code.

HISTORY

1. New section filed 7–24–2006; operative 7–24–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 30).

§ 97923. Terms of Loan Repayment.

(a) Loan repayments shall be made on a quarterly basis.

(b) Loan repayments shall be conditioned upon the recipient providing:

(1) Quarterly reports substantiating service in a medically underserved area in California, and

(2) Updated lender statements.

(c) The recipient shall continue to make any required periodic payments concurrently with payments made by the Office to avoid defaulting on outstanding loans.

(d) Nothing in this section shall prohibit the Office from paying a recipient directly, instead of a lender or note holder.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Sections 128350 and 128485, Health and Safety Code.

HISTORY

1. New section filed 7–24–2006; operative 7–24–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 30).

§ 97924. Loan Repayment Application Process.

(a) Each person desiring a loan repayment shall submit a completed application.

(b) The completed loan repayment application shall include information and documentation to establish the following:

(1) An official copy of transcripts or coursework with vocational nurse certificate of completion posted;

(2) Current employment as a vocational nurse in direct patient care;

(3) Proof of vocational nursing licensure, including license number issued by the California Board of Vocational Nurses and Psychiatric Technicians;

(4) Community background, including current or prior residence in a medically underserved area in California;

(5) Career goals;

(6) Financial need, documented by either a current:

(A) Student Aid Report (SAR) or

(B) Federal tax return and all W–2s;

(7) The loan repayment amount requested with documentation on outstanding educational loans including the current outstanding loan balances(s);

(8) Community involvement, including extracurricular activities;

(9) Commitment to practice as a licensed vocational nurse for twenty four (24) months in a medically underserved area in California;

(10) Two (2) letters of recommendation, dated within six (6) months of the application deadline, including author's name, mailing address, phone number, and relationship to applicant. It is recommended that at least one (1) letter be from a faculty member. It is useful if letters indicate an applicant's academic performance, work experience, community service, volunteer activities, memberships in clubs, or other experience that indicate the applicant's likelihood of program success;

(11) A personal statement indicating qualifications, attributes, or characteristics that would increase the likelihood the applicant would continue to practice in a medically undeserved area in California after service obligation has ended; and

(12) Any other information the applicant believes is relevant, such as certificates, honors, and awards.

(c) There shall be two (2) loan application deadlines per year, March 24 and September 11.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Sections 128350 and 128485, Health and Safety Code.

HISTORY

1. New section filed 7–24–2006; operative 7–24–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 30).

§ 97925. Selection Process.

In selecting loan repayment recipients, the Foundation shall take into consideration the vocational nursing workforce needs of the state in general and of each medically underserved area.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Sections 128345, 128350 and 128485, Health and Safety Code.

HISTORY

1. New section filed 7–24–2006; operative 7–24–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 30).

§ 97926. Service Obligation Provisions for Loan Repayment Recipient.

(a) For each loan repayment contract, the recipient shall agree to a service obligation to practice vocational nursing in direct patient care for twenty–four months in a medically underserved area in California. The service obligation must be fulfilled on a full–time basis. "Full–time" basis means a work week of not less than thirty–two (32) hours.

(b) The service obligation for each loan repayment contract shall become effective and shall commence upon the signing of the contract between the Office and the recipient.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Sections 128350 and 128485, Health and Safety Code.

HISTORY

1. New section filed 7–24–2006; operative 7–24–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 30).

§ 97927. Penalties for Failure to Comply with Requirements of Program.

Penalties for failure to comply with the requirements of this loan repayment program shall be as specified in Section 97747 of Chapter 14 of this Division, except that total repayment shall be required in monthly installments within seven (7) years.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Sections 128350 and 128485, Health and Safety Code.

HISTORY

1. New section filed 7–24–2006; operative 7–24–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 30).

Chapter 17. Licensed Mental Health Service Provider Education Program

§ 97930. Chapter Definitions.

The following definitions shall apply to the regulations in this Chapter:

(a) "Contract" means a written agreement between the Office of Statewide Health Planning and Development (hereinafter "Office") and a recipient of a loan repayment that obligates the recipient, in exchange for financial assistance, to practice their profession for a specified period of time.

(b) "Cultural and linguistic competence" means the ability to understand and respond effectively to the cultural and linguistic needs brought by patients to mental health care encounters.

(c) "Direct patient care" means the provision of health care services directly to individuals being treated for, or suspected of having, physical or mental illness. Direct patient care includes preventative care. The first line supervision of direct patient care shall be considered "direct patient care."

(d) "Director" means the Director of the Office of Statewide Health Planning and Development.

(e) "Educational loan" means a loan of money by a commercial lender or government entity that requires payment, and was obtained by an individual for the purpose of defraying costs associated with their mental health service provider education.

(f) "Foundation" means the Health Professions Education Foundation.

(g) "Licensed mental health service provider" means a psychologist licensed by the Board of Psychology, registered psychologist, postdoctoral psychological assistant, postdoctoral psychology trainee employed in an exempt setting pursuant to Section 2910 of the Business and Professions Code, or employed pursuant to a Department of Mental Health waiver pursuant to Section 5751.2 of the Welfare and Institutions Code, marriage and family therapist, marriage and family therapist intern, licensed clinical social worker, and associate clinical social worker.

(h) "Mental Health Practitioner Education Fund" means the fund established pursuant to section 128458 of the Health and Safety Code.

(i) "Mental Health Professional Shortage Area" means an area designated as such by the U.S. Department of Health and Human Services, Health Resources and Service Administration, Bureau of Health Professions' Shortage Designation Branch.

(j) "Qualified facility" means one of the following:

(1) "A publicly funded facility," which means a health facility, as defined by Health and Safety Code Sections 1200, 1200.1, and 1250, conducted, maintained, or operated by this state or by any of its political subdivisions or districts, or by any city.

(2) "A publicly funded or public mental health facility," which means a hospital, clinic, or long–term care facility licensed and/or certified by the California Department of Mental Health and/or the California Department of Health Services that is conducted, maintained, or operated by this state or by any of its political subdivisions or districts, or by any city, and that provides mental health services.

(3) "A non–profit private mental health facility," which means a hospital, clinic, or long–term care facility licensed and/or certified by the California Department of Mental Health and/or the California Department of Health Services that is operated by a non–profit entity that contracts with a county mental health entity or facility to provide mental health services.

(k) "Service obligation" means the contractual obligation agreed to by the recipient of a loan repayment where the recipient agrees to practice their profession for a specified period of time in or through a qualified facility or a mental health professional shortage area.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Section 128454, Health and Safety Code.

HISTORY

1. New chapter 17 (sections 97930–97930.10) and section filed 12–6–2007; operative 12–6–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 49).

§ 97930.1. Available Funding.

(a) The Office shall award loan repayment to eligible applicants, subject to the availability of funds in the Mental Health Practitioner Education Fund.

(b) Fees collected from the different licensed providers shall be kept separate and shall fund loan repayment awards for recipients from the corresponding licensed provider group.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Sections 128454 and 128458, Health and Safety Code.

HISTORY

1. New section filed 12–6–2007; operative 12–6–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 49).

§ 97930.2. Loan Repayment Eligibility.

(a) To be eligible for loan repayment, an applicant must:

(1) Be a licensed mental health service provider.

(2) Practice as a licensed mental health service provider who provides direct patient care in or through a qualified facility or in a mental health professional shortage area.

(b) An applicant who has signed a contract or written agreement with another entity to practice their mental health profession in exchange for financial assistance, including tuition reimbursement, scholarship, loans, or loan repayment, shall be ineligible to receive a loan repayment under this Chapter until the obligation to this other entity has been fulfilled.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code; and Section 11152, Government Code. Reference: Section 128454, Health and Safety Code.

HISTORY

1. New section filed 12–6–2007; operative 12–6–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 49).

§ 97930.3. Loan Repayment Awards.

(a) The Office will contract to repay a specified amount, on behalf of the program recipient, towards the principal, interest, and related expenses on outstanding governmental and commercial educational loans, not in default, related to the recipient's education required to become a licensed mental health service provider.

(b) The loan repayment award amount for each provider group shall not exceed the estimated annual average cost to attend the respective mental health education program throughout California, as provided by the California Student Aid Commission, for the academic year in which the repayment application has been submitted.

(c) The loan repayment amount awarded shall not exceed the total amount of debt owed on outstanding governmental and commercial education loans for mental health profession education related to pursuing a career as a licensed mental health service provider.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Sections 128454 and 128458, Health and Safety Code.

HISTORY

1. New section filed 12–6–2007; operative 12–6–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 49).

§ 97930.4. Loan Repayment Contracts.

(a) The Office will enter into one (1) loan repayment contract per recipient at a time.

(b) The Office may enter into an additional loan repayment contract if:

(1) The recipient applies for an additional loan repayment;

(2) The recipient has fulfilled the terms and conditions of the previously–awarded loan repayment contract; and

(3) The recipient otherwise continues to be eligible for participation in the program.

(c) The Office shall not award more than two (2) contracts to any recipient.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Section 128454, Health and Safety Code.

HISTORY

1. New section filed 12–6–2007; operative 12–6–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 49).

§ 97930.5. Terms of Loan Repayment.

(a) Loan repayments shall be made on a quarterly basis.

(b) Loan repayments shall be conditioned upon the recipient providing:

(1) Quarterly reports substantiating service in or through a qualified facility or in a mental health professional shortage area in California, and

(2) Updated lender statements.

(c) The recipient shall continue to make any required periodic payments concurrently with payments made by the Office to avoid defaulting on outstanding loans.

(d) Nothing in this section shall prohibit the Office from paying a recipient directly, instead of a lender or note holder.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Section 128454, Health and Safety Code.

HISTORY

1. New section filed 12–6–2007; operative 12–6–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 49).

§ 97930.6. Loan Application Process.

(a) Each person desiring a loan repayment shall submit a completed application.

(b) The completed loan repayment application shall include information and documentation to establish the following:

(1) Proof of licensure, including license number issued by the California Board of Behavioral Sciences or the California Board of Psychology, or proof of registration, including registration number issued by the California Board of Behavioral Sciences, or a unique identification number issued by the California Board of Psychology.

(2) Current employment as a licensed mental health service provider providing direct patient care in or through a qualified facility or in a mental health professional shortage area.

(3) The loan repayment amount requested with documentation on outstanding educational loans related to education required to become a licensed mental health service provider, including the current outstanding loan balance(s);

(4) Community background and involvement;

(5) Career goals;

(6) Cultural and linguistic competence;

(7) Two (2) letters of recommendation, dated within six (6) months of the application deadline, including author's name, mailing address, phone number, and relationship to applicant. Letters may comment on applicant's work experience, community service, volunteer activities, memberships in clubs, and/or attributes that indicate the applicant's likelihood to continue to practice in or through a qualified facility or in a mental health professional shortage area after service obligation has ended;

(8) A personal statement indicating qualifications, attributes, or characteristics that would increase the likelihood the applicant would continue to provide direct patient care in or through a qualified facility or in a mental health professional shortage area in California after service obligation has ended; and

(9) Any other information the applicant believes is relevant.

(c) For the first calendar year of implementation, applications shall be due the fourth Friday in September. From the second year on, deadlines for the two (2) annual loan application cycles, shall be March 24 and September 11.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Section 128454, Health and Safety Code.

HISTORY

1. New section filed 12–6–2007; operative 12–6–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 49).

§ 97930.7. Selection Process.

In recommending loan repayment recipients to the Office, the Foundation shall take into consideration the mental health workforce needs, including cultural and linguistic, of the state in general and the needs of qualified facilities and mental health professional shortage areas.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Section 128454, Health and Safety Code.

HISTORY

1. New section filed 12–6–2007; operative 12–6–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 49).

§ 97930.8. Service Obligation Provisions for Loan Repayment Recipient.

(a) For each loan repayment contract, the recipient shall agree to a service obligation to practice their mental health profession in direct patient care for twenty–four (24) months in or through a qualified facility or in a mental health professional shortage area in California. The service obligation must be fulfilled on a full–time basis. "Full time basis" means a regular work week of not less than thirty–two (32) hours.

(b) The service obligation for each loan repayment contract shall become effective and shall commence upon the signing of the contract between the Office and the recipient.

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Section 128454, Health and Safety Code.

HISTORY

1. New section filed 12–6–2007; operative 12–6–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 49).

§ 97930.9. Penalties for Failure to Comply with Requirements of Program.

Penalties for failure to comply with the requirements of this loan repayment program shall be as specified in Section 97747 of Chapter 14 of this Division, except that total repayment shall be required in monthly installments within seven (7) years.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Section 128454, Health and Safety Code.

HISTORY

1. New section filed 12–6–2007; operative 12–6–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 49).

§ 97930.10. Exceptions to Service or Payment Obligations.

Service or payment obligation may be cancelled, waived, suspended, reduced, or delayed as specified in Section 97726 of Chapter 14 of this Division.

NOTE: Authority cited: Sections 127010 and 127015, Health and Safety Code. Reference: Section 128454, Health and Safety Code.

HISTORY

1. New section filed 12–6–2007; operative 12–6–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 49).

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Title 22. Social Security

Division 8. Nondiscrimination in State–Supported Programs and Activities

Vol. 31

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Division 8. Nondiscrimination in State–Supported Programs and Activities

Chapter 1. Purpose, General Definitions and General Provisions

Article 1. Purpose and General Provisions

§ 98000. Purpose of This Division.

The purpose of this Division is to implement Article 9.5 of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, Sections 11135 through 11139.5, inclusive, which provides, *inter alia*, that:

> No person in the State of California shall, on the basis of ethnic group identification, religion, age, sex, color, or physical or mental disability, be unlawfully denied the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is funded directly by the state or receives any financial assistance from the state.

Article 9.5 requires the Secretary of the Health and Welfare Agency with the advice and concurrence of the Fair Employment Practice Commission (hereinafter referred to as the Fair Employment and Housing Commission or "FEHC" in accordance with the terms of the Governor's Reorganization Plan Number 1 (1980)), to establish standards for determining which persons are protected by Article 9.5 and guidelines for determining what practices are discriminatory. This Division establishes such standards and guidelines.

Article 9.5 also requires the Secretary of the Health and Welfare Agency, with the cooperation of the Fair Employment and Housing Commission, to assist State agencies in coordinating their programs and activities and consult with such agencies, as necessary, to ensure that consistent policies, practices and procedures are utilized by such agencies with respect to the enforcement of Article 9.5. This Division establishes guidelines regarding such policies, practices and procedures in order to eliminate conflicting interpretations and standards of enforcement; increase efficiency and ensure that the ultimate beneficiaries of Article 9.5 have a clear understanding of their rights and the means by which to enforce them.

NOTE: Authority cited: Sections 11135, 11139.5, Government Code. Reference: Sections 11135, 11139.5, Government Code.

HISTORY

1. New Division 8 (Chapters 1–5, Sections 98000–98413, not consecutive and Exhibit A) filed 7–9–80; effective thirtieth day thereafter (Register 80, No. 28).

§ 98001. Legal Scope.

The rights and remedies under this Division are not exclusive and do not affect rights and remedies provided elsewhere by law or contract.

NOTE: Authority cited: Section 11139.5, Government Code. Reference: Section 11139, Government Code.

§ 98002. Private Right of Action.

Except as provided in Section 98003, nothing in this Division shall be construed to preclude or restrict a person from judicially enforcing rights accruing under this Division pursuant to California Code of Civil Procedure Section 1094.5.

NOTE: Authority cited: Section 11139.5, Government Code. Reference: Section 11139, Government Code.

§ 98003. Exhaustion of Administrative Remedies.

Exhaustion of administrative remedies available under this Division or implementing regulations shall not be a prerequisite to the bringing of actions for judicial enforcement of violations of Chapters 2 and 3 or regulations implementing such Chapters if a showing is made that the state agency involved has not adhered to the time limit set forth in Section 98346 of this Division.

NOTE: Authority cited: Section 11139.5, Government Code. Reference: Section 11139, 11139.5, Government Code.

§ 98004. Applicability of This Division by Operation of Law.

The procedures set forth in this Division govern all disputes relating to compliance with responsibilities under this Division by operation of law.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, Government Code.

§ 98005. Preemption of Local Law.

To the extent that any local law, regulation, ordinance, resolution, policy or practice is in conflict with Article 9.5, this Division or implementing regulations, insofar as it affords less protection to persons of a particular ethnic group identification, religion, age, sex, color or physical or mental disability than Article 9.5, this Division, or implementing regulations, it shall be superseded by this Division and implementing regulations.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, Government Code.

§ 98006. Duration of Obligation: Real Property.

(a) In the case of State support extended in the form of real property or to acquire or improve real property, the recipient, or in the case of a subsequent transfer, the subsequent transferee, shall comply with this Division and implementing regulations for the period during which the real property is used for the purpose for which the State support was extended, or for another purpose involving the provision of similar services or benefits.

(b) In the case of State support extended in the form of real property or to acquire or improve real property, the instrument effecting or recording such transfer shall contain a covenant of nondiscrimination running with the land assuring nondiscrimination for the period during which the property is used for the purpose for which the State support was extended, or for another purpose involving the provision of similar services or benefits.

(c) In the case of real property acquired or improved with State support, the instrument effecting any subsequent disposition by the recipient shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for the purpose for which the State support was extended, or for another purpose involving the provision of similar services or benefits.

(d) If a recipient or a transferee of a recipient fails to comply with Subsections (b) and (c) of this Section, the covenants required by those Subsections shall be deemed to be a part of any instrument effecting or recording disposition of the real property involved.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, Government Code.

§ 98007. Duration of Obligation: Personal Property.

In the case of State support extended to acquire personal property, or in the form of personal property, the recipient shall be obligated to comply with this Division and implementing regulations for the period during which it retains ownership or possession of the property.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, Government Code.

§ 98008. Duration of Obligation: Other Cases.

In all other cases, the recipient shall be obligated to comply with this Division and implementing regulations for the period during which State support is received.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, Government Code.

§ 98009. Severability.

If any provision of this Division, or any portion thereof, is adjudged to be invalid by a court of competent jurisdiction, or if any provision of this Division, or a portion thereof, loses its force or effect as a result of legislative action, that judgment or action does not affect the remainder of the provisions of this Division.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, Government Code.

Article 2. General Definitions

§ 98010. Definitions.

As used in this Division, the following definitions shall govern the meaning of terms defined, unless the terms are otherwise defined or modified in the context in which they are used:

"Benefit" means anything contributing to an improvement in condition, including, but not limited to, the aid or services provided as a result of State support.

"Contract" means any agreement, upon sufficient consideration, to do or not do a particular act.

"Contractor" means, unless otherwise indicated, a person or local agency which receives State support under contract or subcontract, and includes prime contractors and subcontractors at any tier.

"DFEH" means the Department of Fair Employment and Housing as defined in Section 1413.1 of the California Labor Code.

"Facility" means all or any portion of buildings, structures, vehicles, equipment, vessels, roads, walks, parking lots or other real or personal property, or interests in such property, such as a life estate.

"FEHC" means the Fair Employment and Housing Commission, as defined in Section 1414 of the California Labor Code.

"Funded directly by the State" means any payment, transfer, or allocation of State funds to any recipient.

"Grant" means an agreement to provide State support.

"Grantee" means a person or local agency which receives State support under grant or subgrant, and includes prime grantees and subgrantees at any tier.

"Local agency" means a public district, public corporation, authority, agency, board, commission, county, city, city and county, school district, or other public entity.

"May" means permissive.

"Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, corporation, association, committee, legal representative, trustee, trustee in bankruptcy, receiver and any other organization or group of persons acting in concert.

"Program or activity" means any project, action or procedure undertaken directly by recipients of State support or indirectly by recipients through others by contracts, arrangements or agreements, with respect to the public generally or with respect to any private or public entity. Such programs or activities include, but are not limited to, the provisions of employment or goods; the procurement of goods or services; the provision of education, training, health, welfare, rehabilitation, housing, or other services; the provision of cash or loan assistance; or the provision of facilities for furnishing services, financial aid or other benefits. The services, financial aid or other benefits provided under such programs or activities shall be deemed to include:

(1) any services, financial aid or other benefits provided with the aid of State support, or with the aid of other funds or resources required to be expended or made available for the program to meet matching requirements or other conditions which must be met in order for the recipients to receive the State support; or

(2) any service, financial aid or other benefit provided in or through a facility which is or was provided with the aid of State support or other funds or resources.

"Real property" means land, structures on land, fixtures attached to structures, interests in such property and space on, over or under such property.

"Recipient" means any contractor, local agency, or person, who regularly employs five or more persons and who receives State support, as defined in this Section, in an amount in excess of $10,000 in the aggregate per State fiscal year or in an amount in excess of $1000 per transaction, by grant, contract or otherwise, directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the State support. "Recipient" does not include State agencies. However, State agencies may look to this Division for guidance in the administration of their programs and activities.

"Secretary" means the Secretary of the Health and Welfare Agency, as defined in Part 2.5 of Division 3 of Title 2 of the Government Code, or the Secretary's designee.

"Services to be provided to the public" means the aid or benefits provided directly to the public by a recipient of State support.

"Shall" means mandatory.

"Should" means advisory.

"State agency" means an administrative subdivision or instrumentality of State government, including, but not limited to, agencies, departments, offices, commissions, boards, bureaus and divisions, which has the statutory or constitutional authority to provide State support to any person.

"State financial assistance" means any grant, entitlement, loan, cooperative agreement, contract or any other arrangement by which a State agency provides or otherwise makes available aid to recipients in the form of:

(1) funds;

(2) services of State personnel; or

(3) real or personal property or any interest in or use of such property, including:

(A) transfers or leases of property for less than fair market value or for reduced consideration; or

(B) proceeds from a subsequent transfer or lease of property if the State share of its fair market value is not returned to the State.

"State support" means the funds or financial assistance provided by the State to a recipient which:

(1) is "Funded directly by the State" as defined in this Section; or

(2) receives "State financial assistance" as defined in this Section.

"State supported program" means any program or activity which receives State support, in whole or in part.

"Ultimate beneficiary" means a person identified in Government Code Section 11135 who receives, applies for, or is unlawfully deterred from receiving or applying for, the benefits of, or employment under a program of activity which receives State support.

NOTE: Authority cited: Sections 11135–11139.5, Government Code. Reference: Sections 11135–11139.5, Government Code.

Article 3. Applicability

§ 98020. Applicability of This Division.

(a) The provisions of this Division are applicable as of the effective date of this Division and shall not be interpreted to be retroactive.

(b) Except as set forth in this Subsection, the provisions of this Division do not apply to recipients who do not provide services to the public as defined in Section 98010. Such recipients shall comply with the regulations of the FEHC and shall be deemed to be "employers" for purposes of such regulations. For purposes of such recipients, the regulations of the FEHC with respect to "employees" or "applicants" shall be deemed to refer to "ultimate beneficiaries" as defined in Section 98010.

NOTE: Authority cited: Sections 11139, 11139.5, Government Code. Reference: Sections 11139, 11139.5, Government Code.

Chapter 2. Discriminatory Practices Relating to All Groups Protected by Article 9.5

Article 1. General Prohibitions Against Discrimination

§ 98100. General Prohibition.

No person in the State of California shall, on the basis of ethnic group identification, religion, age, sex, color, or a physical or mental disability, be unlawfully denied the benefits of, or be unlawfully subjected to discrimination under any program or activity funded directly by the State or receiving any financial assistance from the State.

NOTE: Authority cited: Section 11139.5, Government Code. Reference: Section 11135, Government Code.

§ 98101. Discriminatory Practices Applicable to All Persons.

It is a discriminatory practice for a recipient, in carrying out any program or activity directly, or through contractual, licensing or other arrangements, on the basis of ethnic group identification, religion, age, sex, color, or a physical or mental disability:

(a) to deny a person the opportunity to participate in, or benefit from an aid, benefit or service;

(b) to afford a person the opportunity to participate in or benefit from an aid, benefit or service that is not equal to that afforded others;

(c) to provide a person with an aid, benefit or service that is not as effective in affording an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others. In some situations, identical treatment may be discriminatory;

(d) to provide different or separate aid, benefits or services to a person, or to any class of persons, than is provided to others, or to provide aid, benefits or services at a different time, unless such action is clearly necessary to provide such persons with an equal opportunity to receive as truly effective aid, benefits or services as those provided to others;

(e) to aid or perpetuate discrimination by transferring State support to another recipient that discriminates in providing any aid, benefit or service;

(f) to exclude a person from participation as a member of a planning or advisory board. Under this requirement, it is a discriminatory practice for a recipient to fail to make reasonable efforts to achieve a representative board. However, such requirement is not deemed to impose adherence to a quota system;

(g) to otherwise limit a person in the enjoyment of any right, privilege, advantage or opportunity enjoyed by others receiving any aid, benefit or service resulting from the program or activity;

(h) to deny a person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities;

(i) to utilize criteria or methods of administration that:

(1) have the purpose or effect of subjecting a person to discrimination on the basis of ethnic group identification, religion, age, sex, color, or a physical or mental disability;

(2) have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the recipient's program with respect to a person of a particular ethnic group identification, religion, age, sex, color, or with a physical or mental disability; or

(3) perpetuate discrimination by another recipient on the basis of ethnic group identification, religion, age, sex, color, or a physical or mental disability.

(j) to make or permit selections of sites or locations of facilities:

(1) that have the purpose or effect of excluding persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity;

(2) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to a person of a particular ethnic group identification, religion, age, sex, color, or with a physical or mental disability.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98102. Interpretation of Section 98101.

The provisions of Section 98101 are not intended:

(a) to limit, by the enumeration of specific forms of prohibited discrimination, the general prohibition against discrimination set forth in Section 98100;

(b) to adversely affect lawful programs which benefit persons of a particular ethnic group identification, religion, age, sex, color, or with a physical or mental disability to overcome the effects of conditions that result or have resulted in limited participation in, or receipt of benefits from, any State supported program or activity; or

(c) to prohibit or require actions or practices otherwise allowed or not required under Chapter 3 of this Division.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

Article 2. Mandatory and Permissive Remedial Action

§ 98110. Mandatory Remedial Action.

(a) If the responsible State agency finds a recipient has violated this Division or other implementing regulations the recipient shall take such remedial action as the responsible State agency deems necessary to overcome the effects of such violation.

(b) Where a recipient is found to have violated this Division or implementing regulations and where another recipient exercises control over such recipient, either or both recipients shall be required to take such remedial action as deemed appropriate by the responsible State agency.

NOTE: Authority cited: Sections 11135, 11137, 11139, 11139.5, Government Code. Reference: Sections 11135, 11137, 11139, Government Code.

§ 98111. Permissive Remedial Action.

(a) A State agency may, where necessary to overcome the effects of discrimination in violation of this Division or implementing regulations:

(1) require a recipient to take remedial action with respect to persons who are no longer participants in the recipient's program or activity but who were participants in the program when such discrimination occurred; and

(2) require a recipient to take remedial action with respect to persons who would have been participants in the program or activity had the discrimination not occurred.

(b) Even in the absence of a finding of discrimination, a recipient may be permitted by a State agency to take voluntary steps in addition to any action that is required by this Division or implementing regulations to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity by persons of a particular ethnic group identification, religion, age, sex, color, or with a physical or mental disability.

NOTE: Authority cited: Sections 11135, 11137, 11139, 11139.5, Government Code. Reference: Sections 11135, 11137, 11139, Government Code.

Chapter 3. Discriminatory Practices Relating to Specific Groups Protected by Article 9.5

Article 1. Purpose of This Chapter

§ 98200. Specific Discriminatory Practices.

The purpose of this Chapter is to identify discriminatory practices applicable to particular groups of persons protected by Article 9.5.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

Article 2. Color and Ethnic Group Identification

§ 98210. Definitions.

(a) "Alternative communication services" means the method used or available for purposes of communicating with a person unable to read or speak or write in the English language. "Alternative communication services" include, but are not limited to, the provision of the services of a multilingual employee or an interpreter for the benefit of an ultimate beneficiary and the provision of written materials in a language other than English.

(b) "Color or ethnic group identification" means the possession of the racial, cultural or linguistic characteristics common to a racial, cultural or ethnic group or the country or ethnic group from which a person or his or her forebears originated.

(c) "Interpreter" means a qualified person capable of translating a language, orally or in writing, between people who speak, read or write a different language.

(d) "Multilingual employee" means an employee of a recipient who, in addition to his or her other duties, is also proficient in the oral communication skills and such minimal reading and writing skills, where applicable, as are necessary to accurately and readily interpret in a second language. A multilingual employee need not be proficient in reading or writing skills in a second language except where such skills are a job–related necessity.

(e) "Non–English–speaking persons" means persons who either do not speak English or are unable to effectively communicate in English because English is not their native language.

(f) "Primary language" means the language used most frequently by a person to communicate, including sign language.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98211. Discrimination Prohibited.

It is a discriminatory practice for a recipient:

(a) to discriminate against a person because of such person's association with persons of a particular color or ethnic group identification;

(b) to discriminate against a person because of such person's membership in an organization identified with, or seeking to promote the interests of persons of a specific color or ethnic group identification or because a person's name, or that of his or her spouse, is believed to reflect a given color or ethnic group identification;

(c) to fail to take appropriate steps to ensure that alternative communication services are available to ultimate beneficiaries, except where the State agency determines that such a requirement would place an undue hardship on the recipient.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

Article 3. Religion

§ 98220. Religion Defined.

The term "religion' includes all aspects of religious observance, practice and belief, including duties of the clergy or elders. A belief is religious if sincerely held and, in the scheme of the believer, holds a place analogous to that filled by the deity of those people whose religion may be more orthodox or more widely accepted.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98221. Reasonable Accommodation.

It is a discriminatory practice where a recipient of State support fails to make reasonable accommodation to the religious belief of an ultimate beneficiary where such accommodation can be made without undue hardship on the recipient or other ultimate beneficiaries.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98222. Exemption of Religious Organizations.

Neither this Division nor implementing regulations apply to the religious activities of a religious corporation or association not organized for profit.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98223. Discrimination Prohibited.

It is a discriminatory practice for a recipient of State support to discriminate against an ultimate beneficiary based on the nature of the ultimate beneficiary's religious beliefs.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

Article 4. Age

§ 98230. Definitions.

(a) "Action" means any activity, policy, rule, standard, or method of administration undertaken by a recipient; or the use of any policy, rule, standard, or method of administration by a recipient.

(b) "Age" means how old a person is, or the number of elapsed years from the date of a person's birth.

(c) "Age distinction" means any action using age or an age–related term.

(d) "Age–related term" means a word or words which necessarily imply a particular age or range of ages (for example: "children," "adult," "older persons," but not "student").

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98231. Statutory Exceptions to the Rules Against Age Discrimination.

It is not a discriminatory practice for a recipient to take any action otherwise prohibited by Sections 98100–98101 if such action is based on a Federal statute or regulation, State statute or regulation, or local ordinance consistent with this Division adopted by an elected, general purpose legislative body and which:

(a) provides any benefits or assistance to persons based on age;

(b) establishes criteria for participation in age–related terms; or

(c) describes intended beneficiaries or target groups in age–related terms.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98232. Definition of "Normal Operation" and "Statutory Objective."

For purposes of Sections 98233 and 98234, the terms "normal operation" and "statutory objective" have the following meanings:

(a) "Normal operation" means the operation of a program or activity without significant changes that would impair the recipient's ability to meet the objectives of such program or activity.

(b) "Statutory objective" means any purpose of a program or activity expressly stated in any Federal statute, State statute, or local statute or ordinance consistent with this Division adopted by an elected general purpose legislative body.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98233. Exceptions to the Rules Against Age Discrimination: Normal Operation or Statutory Objective of Any Program or Activity.

It is not a discriminatory practice for a recipient to take an action, otherwise prohibited by Sections 98100–98101, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(a) age is used as a measure or approximation of one or more other characteristics;

(b) the other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity;

(c) the other characteristic(s) can be reasonably measured or approximated by the use of age; and

(d) the other characteristic(s) are impractical to measure directly on an individual basis.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98234. Exceptions to the Rules Against Discrimination: Reasonable Factors Other Than Age.

It is not a discriminatory practice for a recipient to take an action otherwise prohibited by Sections 98100–98101 which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages, provided that such other factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98235. Burden of Proof.

The burden of proving that an age distinction falls within the exceptions of Sections 98231, 98233 or 98234 is on the recipient of State support.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98236. State Agency Review of Policies and Procedures.

(a) Each State agency shall conduct a review of the age distinctions it imposes on its recipients by regulation, policy, or administrative practice. The purpose of this review is to identify how age distinctions are used by each State agency and whether such age distinctions are permissible under this Division.

(b) No later than 12 months from the date a State agency adopts implementing regulations, such agency shall submit a report to the Secretary containing:

(1) the results of the review conducted under subsection (a) of this section;

(2) a list of the age distinctions which re to be continued; and

(3) the justification under Section 98231, 98233 or 98234 for each age distinction to be continued.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98237. Recipient Review of Age Distinctions.

No later than 18 months following the effective date of implementing regulations, each recipient should be required by the responsible State agency to submit a report to such State agency analyzing the results of a review equivalent to that referred to in subsection 98236 (a). Such report should list by program or activity the age distinctions to be continued, together with an explanation of why such distinctions satisfy the terms of Section 98231, 98233, or 98234, and the age distinctions to be eliminated.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98238. State Agency Review of Recipient Age Distinctions.

No later than 24 months following the effective date of implementing regulations, each State agency will be requested to submit a report to the Secretary analyzing the results of the review referred to in Section 98237.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

Article 5. Sex

§ 98240. Parental, Family or Marital Status.

Any rule, policy or practice of a recipient concerning the actual or potential parental, family or marital status of an ultimate beneficiary which has the purpose or effect of differentiating on the basis of sex is a discriminatory practice.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98241. Personal Information.

In determining whether a person satisfies any criteria for receipt of an aid or benefit or participation in a program or activity, it is a discriminatory practice for a recipient to differentiate on the basis of sex in inquiring about the family or marital status of such person. However, such person may be required to provide information relevant and necessary for determining whether such person satisfies validly imposed criteria for the aid or benefit, or participation in the program or activity in question, including any other former names by which such person has been known.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98242. Pregnancy, Childbirth or Termination of Pregnancy.

Any rule, policy or practice of a recipient concerning disability due to pregnancy, childbirth, recovery from childbirth or termination of pregnancy, or other physiological conditions related to the capacity to bear children not applied under the same terms and conditions, and in the same manner, as any other rule, policy or practice relating to any other temporary disability is a discriminatory practice; except as otherwise provided by the Fair Employment Practice Act.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98243. Statistical Stereotypes.

Any rule, policy or practice which treats men and women differently for purposes of any program or activity on the basis of aggregate statistical characteristics of men or women, whether founded in fact, belief or statistical probability is a discriminatory practice.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98244. Sex Pressure Prohibited.

Any rule, policy, practice or incident by a recipient is a discriminatory practice where a supervisor, superior, or other person subject to the control of a recipient of State support, conditions the receipt of benefits of a program or activity upon entering into, or maintaining, a sexual relationship or participation in sexual activity or subjects an ultimate beneficiary to sexual harassment or intimidation such as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

Article 6. Physical or Mental Disability

§ 98250. Definitions.

(a) "Disabled person" means any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

(b) As used in subsection (a) of this section, the phrase "physical or mental impairment" means:

(1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(2) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to such diseases and conditions as orthopedic, visual, speech and hearing impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism.

(3) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(4) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(5) "Is regarded as having an impairment" means:

(A) has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting such a limitation;

(B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(C) has none of the impairments defined in subsection (b) (1) of this section but is treated by a recipient as having such an impairment.

(c) "Disability" means any condition or characteristic that renders a person a disabled person as defined in subsection (a) of this section.

(d) "Qualified disabled person" means:

(1) with respect to employment, a disabled person who, with reasonable accommodation, can perform the essential functions of the job in question, but the term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such person from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others; and

(2) with respect to other programs or activities, a disabled person who meets the essential eligibility requirements of such programs or activities.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98251. Self–Evaluation.

(a) With regard to disabled persons, a recipient with 15 or more employees should be required by the responsible State agency, within one year of the effective date of implementing regulations to:

(1) evaluate, with the assistance of interested persons, including disabled persons or organizations representing disabled persons, its current policies and practices and the effects thereof that do not or may not meet the provisions of such regulations and this Division;

(2) modify, after consultation with interested persons, including disabled persons or organizations representing disabled persons, any policies and practices that do not meet the provisions of such regulations and this Division;

(3) take, after consultation with interested persons, including disabled persons or organizations representing disabled persons, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to such policies and practices; and

(4) for at least three years following completion of the evaluation referred to in subsection (a) (1) of this section, maintain on file, make available for public inspection, and provide to the responsible State agency upon request:

(A) a list of the interested persons consulted;

(B) a description of the areas examined and any problems identified; and

(C) a description of any modifications made and of any remedial steps taken.

(b) A self–evaluation performed by a recipient as required by a federal agency under the provisions of Section 504 of the Rehabilitation Act of 1973 should be permitted to satisfy the provisions of subsection (a) (1) of this section.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98252. Integrated Setting.

It is a discriminatory practice for a recipient of State support to fail to administer programs and activities in the most integrated setting appropriate to the needs of qualified disabled persons.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98253. Communications.

It is a discriminatory practice where a recipient of State support fails to take appropriate steps to ensure that communications with their applicants and beneficiaries are available to persons with impaired vision or hearing.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98254. Program Accessibility.

(a) Except as set forth in subsection (b) below, it is a discriminatory practice where a qualified disabled person, because a recipient's facilities are inaccessible to or unusable by such person, is denied the benefits of, or excluded from participation in, or otherwise subjected to discrimination under any program or activity to which this Division applies. It is a discriminatory practice for a recipient to fail to operate each program or activity to which this Division applies in such a manner that the program or activity, when viewed in its entirety, is readily accessible to disabled persons. This section does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by disabled persons.

(b) It is a discriminatory practice for recipients operating fixed route bus systems or paratransit systems to fail to adhere to the program accessibility requirements set forth in Title 49, Part 27 of the Code of Federal Regulations.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98255. Methods of Ensuring Program Accessibility.

A recipient may comply with the provisions of Section 98254 through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, assignments of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities, or other methods that result in making its program or activities accessible to disabled persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with Section 98254. In choosing among available methods for meeting the provisions of Section 98254, it is a discriminatory practice for a recipient to fail to give priority to those methods that offer programs and activities to disabled persons in the most integrated setting appropriate.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98256. Methods for Small Recipients.

If a recipient with fewer than fifteen employees finds, after consultation with a disabled person seeking its services, that there is no method of complying with Section 98254 other than by making a significant alteration to its existing facilities, the recipient may, as an alternative, be permitted by the responsible State agency to refer the disabled person to other providers whose services are accessible.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98257. Time Period for Compliance.

It is discriminatory practice for a recipient to fail to comply with the requirement of Section 98254 within sixty days of the effective date of implementing regulations, except that where structural changes in facilities are necessary, such changes may be made within three years of such effective date, but in any event, as expeditiously as possible.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98258. Transition Plan.

In the event that structural changes to facilities are necessary to meet the provisions of Section 98254, a recipient should be required by the responsible State agency to develop, within six months of the effective date of implementing regulations, a transition plan setting forth the steps necessary to complete such changes. The plan should be developed with the assistance of interested persons, including disabled persons or organizations representing disabled persons. A copy of the transition plan should be made available for public inspection. The plan should, at a minimum:

(a) identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to disabled persons;

(b) describe in detail the methods that will be used to make the facilities accessible;

(c) specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(d) indicate the person responsible for implementation of the plan.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98259. Notice of the Availability of Accessible Facilities.

Each recipient which is unable to comply with the provisions of Section 98254 within the sixty day period set forth in Section 98257 should be required by the responsible State agency to adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by disabled persons.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98260. New Construction.

(a) Except as set forth in subsection (b) below, it is a discriminatory practice where a facility or part of a facility constructed by, on behalf of, or for the use of a recipient is designed or constructed in such manner that the facility or part of the facility is not readily accessible to and usable by disabled persons if the construction was commenced after the effective date of implementing regulations.

(b) It is a discriminatory practice for recipients operating fixed route bus systems or paratransit systems to fail to adhere to the accessibility requirements for new vehicles set forth in Title 49, Part 27 of the Code of Federal Regulations.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98261. Alteration.

(a) Except as set forth in subsection (b) below, it is a discriminatory practice where each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of implementing regulations in a manner that affects or could affect the usability of the facility or part of the facility is not to the maximum extent feasible, altered in such manner that the altered portion of the facility is readily accessible to and usable by disabled persons.

(b) It is a discriminatory practice for recipients operating fixed route bus systems or paratransit systems to fail to adhere to the accessibility requirements for alterations of vehicles set forth in Title 49, Part 27 of the Code of Federal Regulations.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98262. Accessibility Standards.

Design, construction, or alteration of facilities in conformity with the current "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute, Inc., or the regulations promulgated by the Office of the State Architect pursuant to Chapter 7 (commencing with Section 4450) Division 5 of Title I of the Government Code, constitutes compliance with Sections 98260 and 98261. Departures from particular requirements of these two standards by the use of other methods by a recipient are permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

NOTE: Authority and Reference cited: Sections 11135, 11139, Government Code.

§ 98263. Consideration of Accessible Public Transportation.

It is a discriminatory practice for a recipient, in carrying out any program or activity directly, or through contractual, licensing or other arrangements, to make or permit selections of sites or locations of facilities that fail to consider and allow for the availability, or lack thereof, of accessible public transportation for persons with a physical or mental disability.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

Chapter 4. Compliance and Enforcement

Article 1. State Agency Enforcement System

§ 98300. Cooperation and Assistance.

Each State agency should to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this Division and implementing regulations and provide assistance and guidance to recipients to help them comply voluntarily.

NOTE: Authority cited: Sections 11135, 11136, 11137, 11139, 11139.5, Government Code. Reference: Sections 11135, 11136, 11137, 11139, 11139.5, Government Code.

§ 98301. Internal Compliance.

Each State agency should designate a person at the management level to ensure that the policies, practices and procedures of such agency are consistent with the provisions of Article 9.5 and this Division.

NOTE: Authority cited: Sections 11135, 11136, 11137, 11139, 11139.5, Government Code. Reference: Sections 11135, 11136, 11137, 11139, 11139.5, Government Code.

§ 98302. Requirements for Adopting Regulations.

Those State agencies subject to the provisions of Government Code Section 11138 shall, within 180 days of the effective date of this Division, adopt such additional rules and regulations as are necessary to carry out the purposes and provisions of Article 9.5 and this Division. The Secretary, for good cause shown, may allow State agencies additional time in which to adopt such rules and regulations, provided that the total additional time so allowed shall not exceed 180 days.

NOTE: Authority cited: Sections 11135, 11138, 11139, 11139.5, Government Code. Reference: Sections 11138, 11139, 11139.5, Government Code.

§ 98303. State Agencies Not Required to Adopt Regulations.

State agencies not required by Government Code Section 11138 to adopt regulations shall pursue policies, practices and procedures in accordance with the provisions of Article 9.5 and this Division.

NOTE: Authority cited: Sections 11135, 11138, 11139, 11139.5, Government Code. Reference: Sections 11138, 11139, 11139.5, Government Code.

HISTORY

1. Editorial correction of Authority cite (Register 95, No. 25).

§ 98304. Process for Adopting Regulations.

Each State agency required to adopt regulations pursuant to Government Code Section 11138 shall submit such proposed regulations, and any amendments thereto, to the Secretary for review and comment at least 30 days before such regulations, or amendments thereto, are proposed to be noticed for public hearings pursuant to the Administrative Procedure Act. Such proposed regulations or amendments shall not be noticed for public hearings prior to the completion of the Secretary's review. The Secretary shall review and comment on such proposals in order to further the purposes of coordination and consistency as set forth in Government Code Section 11139.5. Upon completion of the Secretary's review, such State agency shall proceed in accordance with the provisions of Government Code Section 11139.

NOTE: Authority cited: Sections 11135, 11138, 11139, 11139.5, Government Code. Reference: Sections 11138, 11139, 11139.5, Government Code.

§ 98305. Secretary's Review of State Agency Regulations.

In conducting the review set forth in Section 98304, the Secretary shall utilize at least the following criteria:

(a) the extent to which the proposed regulations will ensure that their implementation will fulfill the fundamental purposes of Article 9.5;

(b) the extent to which the proposed regulations conform to this Division;

(c) the extent to which the procedural aspects of the proposed regulations will ensure expeditious, fair, and effective resolution of complaints;

(d) the extent to which the proposed regulations make sufficiently specific the general provisions of this Division with regard to the programs or activities administered by the State agency and enable a recipient to interpret with some certainty the application of the State agency's proposed regulations to the program or activity for which the recipient receives State support.

NOTE: Authority cited: Sections 11135, 11138, 11139, 11139.5, Government Code. Reference: Sections 11138, 11139, 11139.5, Government Code.

§ 98306. State Agencies Subject to Government Code Section 11138 in the Future.

Each State agency not required to adopt regulations as set forth in Government Code Section 11138 upon the effective date of this Division, but which becomes subject to such section at a later date, shall:

(a) within 180 days of such later date, adopt such additional rules and regulations as are necessary to carry out the provisions of Article 9.5 and this Division; and

(b) at least 30 days before such regulations or amendments thereto are proposed to be noticed for public hearings pursuant to the Administrative Procedure Act, submit such regulations and any amendments thereto to the Secretary for review and comment in accordance with Sections 98304 and 98305. Such proposed regulations or amendments shall not be noticed for public hearings prior to the completion of the Secretary's review.

NOTE: Authority cited: Sections 11135, 11138, 11139, 11139.5, Government Code. Reference: Sections 11138, 11139, 11139.5, Government Code.

Article 2. Compliance Reports and Compliance Information

§ 98310. Primary Recipient Compliance Reports.

Each recipient should be required to keep such records and submit to the responsible State agency such timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the responsible State agency determines to be necessary to ascertain whether the recipient has complied or is complying with Article 9.5. Recipients should be required to have available, at a minimum, data showing the extent to which persons of a particular ethnic group identification, religion, age, sex, color, or with a physical or mental disability are ultimate beneficiaries of State supported programs or activities; except that such reports and such information should not be routinely required of all recipients, but only where necessary to enforcement of the provisions of Article 9.5.

NOTE: Authority cited: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code. Reference: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code.

§ 98311. Non–Primary Recipient Compliance Reports.

In the case of any program or activity under which a primary recipient transfers State support to any other recipient, such other recipient should also be required to submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligation under this Division and implementing regulations.

NOTE: Authority cited: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code. Reference: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code.

§ 98312. Substitute or Complementary Compliance Reports.

Where the responsible State agency determines that pre–existing records and reports required by other State or Federal agencies meet requisite reporting and evaluation needs, such State agency should accept submission of such reports as a substitute, or if needed, as a complement to the reports referred to in Section 98310. Complementary reports should not require duplicate answers or data but should only be addressed to any additional needs of such State agency.

NOTE: Authority cited: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code. Reference: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code.

§ 98313. State Agency Access to Recipient Compliance Information.

Each recipient should be required to permit access by representatives of the responsible State agency during normal business hours to such of its books, records, accounts, other sources of information, and its facilities as may be pertinent to ascertain compliance with Article 9.5. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person and that agency, institution or person, fails or refuses to furnish such information, the recipient should be required to so certify and set forth the efforts it has made to obtain such information and the basis for the withholding of such information.

NOTE: Authority cited: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code. Reference: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code.

§ 98314. Noncompliance with Reporting Requirements.

Failure by a recipient to file timely, complete and accurate reports or to permit access to compliance information should be considered noncompliance with the recipient's obligation under Article 9.5 and grounds for the imposition of appropriate sanctions by the responsible State agency as set forth in Section 98370.

NOTE: Authority cited: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code. Reference: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code.

Article 3. Information to Beneficiaries, the Public, Recipients and Employees on Rights and Responsibilities

§ 98320. General Purpose of This Article.

Experience has proven that the fulfillment of the goal of nondiscrimination is best achieved—particularly in the long run—through voluntary means and that a necessary component of voluntary compliance is information to beneficiaries, the public, State agencies, and recipients of State support regarding their respective rights and responsibilities. Sections

98321 through 98326 set forth rudimentary procedures which should be followed in disseminating such information.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98321. State Agencies to Familiarize Employees with the Provisions of This Division.

Each State agency should ensure that its employees are generally familiar with this Division and implementing regulations and should provide that when any employee, especially an employee conducting administrative hearings or performing audit or program review functions, during the course of performing his or her duties, has reason to believe that a recipient may have violated this Division or such regulations, such employee is to so advise the person referred to in Section 98301.

NOTE: Authority cited: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code. Reference: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code.

§ 98322. State Agency Notification to the Secretary and to Recipients.

(a) As soon as is reasonably possible, but within 60 days after the effective date of this Division, each State agency which determines that it is not required to adopt regulations pursuant to Government Code Section 11138 shall notify the Secretary of its determination, and the basis of such determination, and should:

(1) notify all recipients to whom such agency provides state support that such recipients are subject to this Division; and

(2) provide all such recipients with an informational summary of the rights of ultimate beneficiaries and the responsibilities of recipients under Article 9.5 and this Division. Such summary should acquaint such ultimate beneficiaries with the State agency's complaint, investigation and compliance review process.

(b) Each State agency which determines that it is not subject to the provisions of Subsection (a) of this section because it will be required to adopt regulations pursuant to Government Code Section 11138, shall file a notice of such determination with the Secretary within 60 days after the effective date of this Division and should as soon as possible, but within 90 days after the effective date of such regulations, notify all recipients to whom such agency provides State support, that such recipients are subject to this Division and to such regulations.

NOTE: Authority cited: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code. Reference: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code.

§ 98323. State Agency Equal Rights Contract Clause.

Each State agency providing State support subject to this Division shall include the equal rights clause in Exhibit "A" in each contract, grant, loan, or other document, (and modifications thereof, if not included in the original document) by which State support is provided.

NOTE: Authority cited: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code. Reference: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code.

§ 98324. Information to Recipient Employees.

As soon as practicable after the effective date of implementing regulations, each recipient should be required to ensure that its employees are made aware of the rights of ultimate beneficiaries and the responsibilities of recipients under Article 9.5 and be able to document the methods it has used for this purpose.

NOTE: Authority cited: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code. Reference: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code.

§ 98325. Recipients to Designate an Employee to Handle Inquiries and Complaints.

Each recipient of State support should be required by the responsible State agency to:

(a) designate an employee to whom initial complaint or inquiries regarding Article 9.5, this Division or implementing regulations can be directed, and

(b) keep a record of the name of such person for State agency and public review.

NOTE: Authority cited: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code. Reference: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code.

§ 98326. Information to the Public, Applicants and Beneficiaries.

Each recipient should be required by the responsible State agency to make available to ultimate beneficiaries and other interested persons information regarding the responsible State agency's procedures for the filing of a complaint and other information regarding the provisions of Article 9.5 and its applicability to the program for which the recipient receives State support, and make such information available to them in such manner, as the responsible State agency finds necessary to apprise such persons of the protections against discrimination assured them by Article 9.5, this Division and the responsible State agency's regulations.

NOTE: Authority cited: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code. Reference: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code.

Article 4. Compliance Reviews and Complaints

§ 98340. State Agency Compliance Review Requirements.

Each State agency should, as necessary, undertake reviews of recipients to determine their compliance with the provisions of this Division and the State agency's regulations. On–site reviews should be prioritized in such a manner as to achieve most effectively the purposes of Article 9.5 and to discover and remedy systemic discrimination. Selection for compliance review should be made on the basis of:

(a) the number and nature of complaints filed against a recipient;

(b) the scope of the problems revealed by an investigation commenced by the filing of a complaint;

(c) the relative disparity between the percentage of persons of a particular ethnic group identification, religion, age, sex, color, or with a physical or mental disability in the relevant labor market and the percentage of such persons employed by the recipient;

(d) the percentage of persons of a particular ethnic group identification, religion, age, sex, color, or with a physical or mental disability receiving benefits, services or financial assistance from a State supported program or activity;

(e) the amount of State support provided to the recipient; and

(f) the nature and scope of information provided by interested persons and the general public with respect to a recipient.

NOTE: Authority cited: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code. Reference: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code.

§ 98341. Compliance Coordination.

Where each of a number of recipients is receiving State support for similar or related purposes from two or more State agencies, or where two or more State agencies cooperate in administering State support for a given class of recipients, such State agencies should coordinate compliance review and enforcement activities. Any State agency conducting a compliance review or investigating a complaint should notify any other affected State agency upon discovery of that agency's concurrent jurisdiction. The Interagency Planning and Operations Committee established in Section 98382 will explore methods to minimize the workload involved in compliance reviews and enforcement activities through effective coordination and make recommendations for their incorporation into a coordinated compliance review and enforcement process.

NOTE: Authority cited: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code. Reference: Sections 11135, 11137, 11138, 11139, 11139.5, Government Code.

§ 98342. Compilation of Evidence.

Whenever a State agency has, upon the basis of a complaint or upon the basis of information obtained during a compliance review, or other–

wise has reasonable cause to believe that a recipient has violated this Division or implementing regulations, such State agency shall compile all relevant evidence to enable it to determine whether there is probable cause to believe that a violation has occurred.

NOTE: Authority cited: Sections 11135, 11136, 11139, 11139.5, Government Code. Reference: Sections 11135, 11136, 11139, 11139.5, Government Code.

§ 98343. Who May File a Complaint.

State agencies should permit any person, including such person's duty authorized representative or an interested third party to file a complaint.

NOTE: Authority cited: Sections 11135, 11136, 11139, 11139.5, Government Code. Reference: Sections 11135, 11136, 11139, 11139.5, Government Code.

§ 98344. Time Period for Filing a Complaint.

State agencies should require that no complaint may be filed after the expiration of one year from the date upon which the alleged violation occurred, except that this period should be extended for not to exceed 90 days following the expiration of that year if the complainant first obtained knowledge of the facts of the alleged violation after the expiration of one year from the date of its alleged occurrence.

NOTE: Authority cited: Sections 11135, 11136, 11139, 11139.5, Government Code. Reference: Sections 11135, 11136, 11139, 11139.5, Government Code.

§ 98345. Acknowledgement of Complaints.

State agencies should acknowledge receipt of complaints to the complainant within 10 days of the date the complaint is received by the State agency. A copy of the complaint shall be forwarded by the State agency to the Secretary. If the complaint alleges discrimination in employment, the State agency shall forward a copy to the DFEH.

NOTE: Authority cited: Sections 11135, 11136, 11139, 11139.5, Government Code. Reference: Sections 11135, 11136, 11139, 11139.5, Government Code.

§ 98346. Compilation of Evidence Time Period and Process.

The time period for compiling all relevant evidence under Section 98342 of this Division should not exceed 180 days from the date of the receipt of a complaint or other notice of a possible violation of this Division or implementing regulations. The compilation process should include, where appropriate:

(a) a review of the pertinent policies and practices of the recipient;

(b) a review of the circumstances under which the possible violation occurred;

(c) a full discussion with witnesses and the complainant, if any;

(d) an opportunity for parties to present evidence and information regarding the possible violation;

(e) a review of any other factors relevant to a determination as to whether there is probable cause to believe that the recipient has failed to comply with this Division or implementing regulations; and

(f) the informing of the complainant, if any, of the substance of any negotiations, determinations, agreements or corrective action taken by the recipient.

NOTE: Authority cited: Sections 11135, 11136, 11139, 11139.5, Government Code. Reference: Sections 11135, 11136, 11139, 11139.5, Government Code.

§ 98347. Resolution of Possible Violations Prior to Hearing.

During the period permitted for the compilation of all relevant evidence as set forth in Section 98346, the State agency should seek to informally resolve the possible violation. Any such resolution may; if the State agency determines that the substantial nature of the matters involved, the scope of the problems presented or the probability that the facts which gave rise to the matter will recur; be set forth in a written conciliation agreement which the complainant, if any, has had an opportunity to review at least 20 days prior to the execution of such agreement by the parties. A copy of all conciliation agreements shall be sent to the Secretary by the State agency.

NOTE: Authority cited: Sections 11135, 11136, 11139, 11139.5, Government Code. Reference: Sections 11135, 11136, 11139, 11139.5, Government Code.

§ 98348. State Agency Action upon Compilation of Evidence.

As soon as possible, but no later than 7 days after the expiration of the 180 day evidence compilation period provided for in Section 98346, a State agency should, where the possible violation has not been informally resolved:

(a) file an accusation, pursuant to Section 11503 of the Government Code, on the basis of a finding that there is probable cause to believe that a violation has occurred, and the matter has not been resolved informally or through a written conciliation agreement. A copy of the accusation shall be provided to the Secretary and, in accordance with the Information Practices Act, should be provided to the complainant, the recipient and to any person or organization that has, in writing, requested from such agency copies of the accusation;

(b) issue notification to all interested parties that a conciliation agreement has been executed that has resolved the possible violation; or

(c) issue a letter of finding to all interested parties stating that, after diligent compilation of all relevant evidence, no probable cause exists for the filing of an accusation.

NOTE: Authority cited: Sections 11135, 11136, 11137, 11139, 11139.5, Government Code. Reference: Sections 11135, 11136, 11139, 11139.5, Government Code.

§ 98349. Retaliatory Action Prohibited.

No recipient shall intimidate, threaten, coerce or take adverse action against any person for the purpose of interfering with rights secured by Article 9.5 or this Division, or because he or she has filed a complaint, certified, assisted or otherwise participated in an investigation, proceeding, hearing or any other activity undertaken to enforce this Division. Violations of this provision shall be considered to be a discriminatory practice subject to the sanctions set forth in Section 98370.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11136, 11139, 11139.5, Government Code.

Article 5. Hearing Process

§ 98360. Hearings to Be Conducted Pursuant to the Administrative Procedure Act.

The accusation referred to in Subsection 98348 (a) shall initiate the hearing process referred to in Government Code Section 11136.

NOTE: Authority cited: Sections 11136, 11139, 11139.5, Government Code. Reference: Sections 11136, 11139.5, Government Code.

§ 98361. Parties to a Hearing.

The State agency and the recipient should be parties to a hearing with respect to any accusation under this Division filed pursuant to Government Code Section 11503.

NOTE: Authority cited: Sections 11136, 11139, 11139.5, Government Code. Reference: Sections 11136, 11139.5, Government Code.

§ 98362. Amicus Curiae Participation.

Any person or organization wishing to participate as amicus curiae should be permitted to file a petition to appear prior to the hearing with the Director of the Office of Administrative Hearings. Such petition should concisely state:

(a) the petitioner's interest;

(b) who will represent the petitioner; and

(c) the issues on which the petitioner intends to present argument.

NOTE: Authority cited: Sections 11136, 11139, 11139.5, Government Code. Reference: Sections 11136, 11139.5, Government Code.

§ 98363. Decision Regarding Amicus Curiae.

The presiding officer should grant the petition to appear amicus curiae if he or she finds that the petitioner has a legitimate interest in the proceedings, that such participation will not unduly delay the outcome and may contribute materially to the proper disposition of the issues.

NOTE: Authority cited: Sections 11136, 11139, 11139.5, Government Code. Reference: Sections 11136, 11139.5, Government Code.

§ 98364. Expedited Hearings.

Each State agency should establish procedures for expedited hearings where, in the discretion of the State agency, prompt hearings are needed to carry out more effectively the purposes of Article 9.5 and this Division. The time period for expedited hearings should not exceed thirty days from the date the accusation is filed. The decision should be issued within 30 days. Appropriate circumstances for such hearings may include:

(a) instances where the issues are not complex;

(b) instances where benefits, services or other opportunities for persons of a particular ethnic group identification, religion, age, sex, color, or with a physical or mental disability be lost due to discriminatory practices pending a hearing; or

(c) administrative resources would be wasted if a prolonged hearing were held.

NOTE: Authority cited: Sections 11136, 11139, 11139.5, Government Code. Reference: Sections 11136, 11139.5, Government Code.

§ 98365. Relief Pending Hearing.

When a State agency determines that persons of a particular ethnic group identification, religion, age, sex, color, or with a physical or mental disability will undergo substantial ongoing harm during the period of time required to complete a hearing pursuant to Government Code Section 11500, and following, the matter should be immediately referred to the Attorney General or the State agency's own legal counsel to seek a temporary restraining order or a preliminary injunction pending the outcome of the administrative hearing.

NOTE: Authority cited: Sections 11136, 11139, 11139.5, Government Code. Reference: Sections 11136, 11139.5, 11500, Government Code.

§ 98366. Hearing Decisions to Be Forwarded to the Secretary.

A copy of all decisions proposed by the hearing officer of the Office of Administrative Hearings and a copy of the decision adopted by the State agency shall be promptly transmitted to the Secretary.

NOTE: Authority cited: Sections 11136, 11139, 11139.5, Government Code. Reference: Sections 11136, 11139.5, Government Code.

Article 6. Sanctions

§ 98370. State Agency Enforcement Powers.

Upon a determination by a State agency that a recipient has violated this Division or implementing regulations, the State agency, in addition to remedies provided by other laws, shall take one or more of the following actions to ensure compliance with Article 9.5 of this Division:

(a) termination of all or part of the recipient's State support;

(b) suspension of all or part of the recipient's State support;

(c) debarment from, or otherwise making the recipient ineligible for, future State support for a specified period of time or until specified remedial actions are taken by the recipient;

(d) probationary eligibility for future State support, or making future State support conditional upon compliance with specified conditions;

(e) placing conditions upon the continuation of present State support; and

(f) referral of the case to the Attorney General's Office or other appropriate law enforcement entities for any judicial relief at law or equity, including specific performance of agreements between the State agency and the recipient, enforcement of the requirements of Article 9.5 and this Division and enforcement of other applicable nondiscrimination laws.

NOTE: Authority cited: Sections 11136, 11137, 11139, 11139.5, Government Code. Reference: Sections 11136, 11137, 11139, 11139.5, Government Code.

Article 7. Enforcement System Evaluation and Coordination

§ 98380. State Agency Enforcement Evaluation.

Beginning in 1981, each State agency will be annually provided a form to be developed by the Secretary, for purposes of the State agency's evaluation of its progress in enforcing the provisions of Article 9.5, progress and problems, if any, in applying the provisions of this Division and in coordinating the programs and activities as set forth in Section 11139.5 of Article 9.5 and recommendations on any improvements needed in the enforcement system.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98381. Secretary and FEHC Assistance and Consultation.

In keeping with the provisions of Section 11139.5 of Article 9.5, the Secretary will, with the cooperation of the FEHC, monitor the impact of this Division in achieving the purposes of Article 9.5, make such changes as may be needed to better achieve such purposes and assist and consult with State agencies as needed so that consistent policies, practices and procedures are adopted with respect to the enforcement of Article 9.5.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98382. Interagency Planning and Operations Committee.

The Secretary, with the cooperation of the FEHC, will establish an Interagency Planning and Operations Committee to foster cooperation in the statewide planning, development, evaluation and ongoing coordination of the activities provided for in this Division and to promote consistent policies, practices and procedures in the enforcement of Article 9.5.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

Chapter 5. Relationship Between the Secretary, DFEH and FEHC

Article 1. Incorporation of DFEH and FEHC Employment Discrimination Regulations by Reference

§ 98400. Incorporation of FEHC Definitions and Prohibitions by Reference.

The definitions and prohibitions set forth in Chapter 3 of Title 8 and Division 4 of Title 2 of the California Administrative Code are hereby incorporated by reference. Any act or omission which is contrary to said definitions and prohibitions constitutes a violation of this Division and is subject to the sanctions provided for in this Division. In the event of any conflict between the definitions and prohibitions of the provisions incorporated by this reference and the definitions and prohibitions set forth in Chapters 1 through 4 of this Division, the definitions and prohibitions set forth in Chapters 1 through 4 shall prevail.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

Article 2. State Agency, DFEH and FEHC Roles

§ 98410. Discriminatory Practices Relating to Employment.

Article 9.5 prohibits all recipients of State support from engaging in discriminatory practices. To the extent that a complaint alleges only employment discrimination, DFEH shall have the exclusive authority to investigate and the FEHC shall have the exclusive authority to adjudicate such a complaint. The findings of fact by FEHC shall be binding with respect to any State agency which is responsible for taking action under the provisions of Article 9.5 and this Division based upon the recipient's acts or omissions which were the subject of DFEH's investigation and FEHC's adjudication. Nothing herein contained shall be construed to limit FEHC's authority exclusive of Article 9.5 to fashion appropriate remedies to relieve any individual aggrieved by employment discrimination. The State agency shall, however, determine the appropriate action

to be taken under the provisions of Article 9.5 based upon those findings of fact.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98411. Discriminatory Practices Relating to Both Employment and Other Areas Under Article 9.5.

To the extent that a complaint alleges both employment discrimination and discrimination in other areas under Article 9.5, DFEH and FEHC shall proceed according to their own statutory authority with respect to the employment portion of the complaint, and the appropriate State agency shall proceed with regard to the portions of the complaint under other areas of Article 9.5 and this Division.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98412. Discriminatory Practices Relating Solely to Areas Under Article 9.5 Other Than Employment.

To the extent that a discriminatory practice relates to areas under Article 9.5 other than employment, the State agency providing State support to the recipient in question has sole responsibility and this Division and the State agency's implementing regulations govern exclusively.

NOTE: Authority cited: Sections 11135, 11139, 11139.5, Government Code. Reference: Sections 11135, 11139, 11139.5, Government Code.

§ 98413. Filing of Employment Discrimination Complaints.

A complaining party who alleges both discrimination in employment and discrimination in other areas under Article 9.5 must file separate complaints with DFEH and the responsible State agency for processing of the two types of charges.

NOTE: Authority cited: Sections 11135, 11136, 11139, 11139.5, Government Code. Reference: Sections 11135, 11136, 11139, 11139.5, Government Code.

EXHIBIT A

ASSURANCE OF NONDISCRIMINATION IN STATE-SUPPORTED PROGRAMS AND ACTIVITIES

_____ (Name of Recipient) (hereinafter called the "Recipient") agrees that it will comply with Article 9.5 (commencing with Section 11135) of Chapter 1, Part 1, Division 3, Title 2, of the Government Code and the regulations adopted or actions taken by _____ (Name of State Agency) to implement such article to the end that no person in the State of California shall, on the basis of ethnic group identification, religion, age, sex, color, or physical or mental disability, be unlawfully denied the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is funded directly by the state or receiving any financial assistance from the state.

In the case where the state support is to provide or improve or is in the form of real property or interest therein or structures thereon, this assurance shall obligate the Recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for the purpose for which the state support was extended, or for another purpose involving the provision of similar services or benefits. In the case where state support is extended to provide personal property, or in the form of personal property, this assurance shall obligate the Recipient for the period during which it retains ownership or possession of the property. In all other cases, this assurance shall obligate the Recipient for the period during which the state support is extended to it.

Each Recipient shall ensure that each of its employees are aware of the rights of ultimate beneficiaries and the responsibilities of recipients under Article 9.5, and make available to ultimate beneficiaries and other interested persons information regarding the provisions of Article 9.5 and its applicability to the program or activity for which the Recipient receives state support.

Each Recipient shall permit access by representatives of _____ (Name of State Agency) at any time during normal business hours to such of its books, records, accounts, other sources of information, and its facilities as may be pertinent to ascertain compliance with Article 9.5.

The Recipient recognizes and agrees that state support will be extended in reliance upon the representations and agreements made in this assurance, and that the State of California shall have the right to seek administrative and judicial enforcement of this assurance. This assurance is binding on the Recipient, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Recipient.

_____ (Date)

_____ (Name of Recipient)

_____ (President, Chairperson of Board, or Comparable Authorized Official)

_____ (Address)

Barclays Official

CALIFORNIA CODE OF REGULATIONS

Title 22. Social Security

Division 9. Prehospital Emergency Medical Services

Vol. 31

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Division 9. Prehospital Emergency Medical Services

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Division 9. Prehospital Emergency Medical Services

Chapter 1. Emergency Medical Services Authority and Commission on Emergency Medical Services—Conflict of Interest Code

NOTE: It having been found, pursuant to Government Code Section 11344, that the printing of the regulations constituting the Conflict of Interest Code is impractical and these regulations being of limited and particular application are not published in full in the California Code of Regulations. The regulations are available to the public for review or purchase at cost at the following locations:

EMERGENCY MEDICAL SERVICES AUTHORITY
1600 NINTH STREET
SACRAMENTO, CA 95814

FAIR POLITICAL PRACTICES COMMISSION
1100 K STREET
SACRAMENTO, CA 95814

ARCHIVES
SECRETARY OF STATE
1020 "O" STREET
SACRAMENTO, CA 95814

The Conflict of Interest Code is designated as Chapter 1, Division 9 of Title 22 of the California Code of Regulations, and consists of sections numbered and titled as follows:

Chapter 1. Emergency Medical Services Authority and Commission on Emergency Medical Services—Conflict of Interest Code

Section
100000. General Provisions
Appendix

NOTE: Authority cited: Section 87300, Government Code. Reference: Section 87300, Government Code.

HISTORY

1. New division 9 (chapter 2, articles 1–6, sections 100005–100055, not consecutive) filed 9–1–82; effective upon filing pursuant to Government Code section 11346.2(d) (Register 82, No. 36).
2. New chapter 1 (section 100000 and Appendix) filed 9–20–82; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 5–4–82 (Register 82, No. 39).
3. Editorial renumbering of division 9 to sections 100000–100055, not consecutive (Register 82, No. 39).
4. Amendment of section and Appendix filed 9–16–94; operative 10–17–94. Submitted to OAL for printing only pursuant to Government Code section 11346.2. Approved by Fair Political Practices Commission 8–10–94 (Register 94, No. 37).

Chapter 1.1. Training Standards for Child Care Providers

Article 1. Definitions

§ 100000.1. Child.

"Child" means a person who is under 18 years of age who is being provided care and supervision in a child care facility.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1596.750, 1596.866 and 1797.191, Health and Safety Code.

HISTORY

1. New chapter 1.1 (articles 1–4, sections 100000.1–100000.24), article 1 (sections 100000.1–100000.7) and section filed 1–26–95 as an emergency; operative 1–26–95 (Register 95, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–26–95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction renumbering section 10000.1 to 100000.1 (Register 95, No. 8).
3. Editorial correction of HISTORY NOTE 1 (Register 95, No. 8).
4. Certificate of Compliance as to 1–26–95 order transmitted to OAL 5–17–95 and filed 6–29–95 (Register 95, No. 26).
5. Amendment of chapter heading and section filed 6–29–99 as an emergency; operative 6–29–99 (Register 99, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–27–99 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6–29–99 order, including amendment of NOTE, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.2. Child Care Facility.

"Child care facility" means a facility which provides nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24–hour basis. Child care facility includes child care centers and family child care homes.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1596.750, 1596.866 and 1797.191, Health and Safety Code.

HISTORY

1. New section filed 1–26–95 as an emergency; operative 1–26–95 (Register 95, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–26–95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction renumbering section 10000.2 to 100000.2 (Register 95, No. 8).
3. Certificate of Compliance as to 1–26–95 order transmitted to OAL 5–17–95 and filed 6–29–95 (Register 95, No. 26).
4. Amendment of section heading and section filed 6–29–99 as an emergency; operative 6–29–99 (Register 99, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–27–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 6–29–99 order transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.3. Child Care Center.

"Child care center" means any child care facility other than a family child care home, and includes infant centers, preschools, and extended child care facilities.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1596.750, 1596.866 and 1797.191, Health and Safety Code.

HISTORY

1. New section filed 1–26–95 as an emergency; operative 1–26–95 (Register 95, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–26–95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction renumbering section 10000.3 to 100000.3 (Register 95, No. 8).
3. Certificate of Compliance as to 1–26–95 order transmitted to OAL 5–17–95 and filed 6–29–95 (Register 95, No. 26).
4. Amendment of section heading and section filed 6–29–99 as an emergency; operative 6–29–99 (Register 99, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–27–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 6–29–99 order transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.4. Family Child Care Home.

"Family Child Care Home" means a home which regularly provides care, protection, and supervision of 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, and includes the following:

(a) "Large family child care home" means a home that provides family child care for 7 to 14 children, inclusive, including children under the age of 10 years who reside at the home, as set forth in Section 1597.465 of the Health and Safety Code and as defined in Chapter 3 of Division 12 of Title 22 of the California Code of Regulations.

(b) "Small family child care home" means a home that provides family child care to eight or fewer children, including children under the age of 10 years who reside at the home, as set forth in Section 1597.44 of the Health and Safety Code and as defined in Chapter 3 of Division 12 of Title 22 of the California Code of Regulations.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1596.78, 1596.866, 1597.44, 1597.465 and 1797.191, Health and Safety Code.

HISTORY

1. New section filed 1–26–95 as an emergency; operative 1–26–95 (Register 95, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–26–95

or emergency language will be repealed by operation of law on the following day.
2. Editorial correction renumbering section 10000.4 to 100000.4 (Register 95, No. 8).
3. Certificate of Compliance as to 1–26–95 order transmitted to OAL 5–17–95 and filed 6–29–95 (Register 95, No. 26).
4. Amendment of section heading, section and NOTE filed 6–29–99 as an emergency; operative 6–29–99 (Register 99, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–27–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 6–29–99 order, including amendment of subsections (a) and (b), transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.5. Child Care Provider.

"Child care provider" means a person who provides care to children in a child care facility that is licensed pursuant to Chapter 3.5 (commencing with Section 1596.90) or Chapter 3.6 (commencing with Section 1597.30) of the Health and Safety Code.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1596.791, 1596.90, 1597.30 and 1596.866, Health and Safety Code.

HISTORY

1. New section filed 1–26–95 as an emergency; operative 1–26–95 (Register 95, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–26–95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction renumbering section 10000.5 to 100000.5 (Register 95, No. 8).
3. Certificate of Compliance as to 1–26–95 order transmitted to OAL 5–17–95 and filed 6–29–95 (Register 95, No. 26).
4. Amendment filed 6–29–99 as an emergency; operative 6–29–99 (Register 99, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–27–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 6–29–99 order, including amendment of section heading, section and NOTE, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.6. Training Program.

"Training program" means a program that applies to the Emergency Medical Services Authority (EMS Authority) for review and approval of its child care pediatric first aid, CPR, and/or preventive health and safety training program.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1596.791, 1596.90, 1596.866 and 1597.30, Health and Safety Code.

HISTORY

1. New section filed 1–26–95 as an emergency; operative 1–26–95 (Register 95, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–26–95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction renumbering section 10000.6 to 100000.6 (Register 95, No. 8).
3. Certificate of Compliance as to 1–26–95 order transmitted to OAL 5–17–95 and filed 6–29–95 (Register 95, No. 26).
4. Certificate of Compliance as to 6–29–99 order, including renumbering of former section 100000.6 to section 100000.11 and new section 100000.6, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.7. Approved Training Program.

"Approved training program, or approved program", means a training program that is approved by the EMS Authority to provide pediatric first aid, CPR, and/or preventive health and safety training to child care providers.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1596.90, 1596.791, 1596.866 and 1597.30, Health and Safety Code.

HISTORY

1. New section filed 1–26–95 as an emergency; operative 1–26–95 (Register 95, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–26–95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction renumbering section 10000.7 to 100000.7 (Register 95, No. 8).
3. Certificate of Compliance as to 1–26–95 order transmitted to OAL 5–17–95 and filed 6–29–95 (Register 95, No. 26).
4. Certificate of Compliance as to 6–29–99 order, including renumbering of former section 100000.7 to section 100000.12 and new section 100000.7, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.8. Affiliate Program.

"Affiliate program" means the training program that provides an approved child care pediatric first aid, CPR, or preventive health and safety training because of its association with a training program approved by the EMS Authority.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1596.791, 1596.90, 1596.866 and 1597.30, Health and Safety Code.

HISTORY

1. New article 2 (sections 100000.8–100000.18) and section filed 1–26–95 as an emergency; operative 1–26–95 (Register 95, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–26–95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction renumbering section 10000.8 to 100000.8 (Register 95, No. 8).
3. Editorial correction of HISTORY NOTE 1 (Register 95, No. 8).
4. Certificate of Compliance as to 1–26–95 order transmitted to OAL 5–17–95 and filed 6–29–95 (Register 95, No. 26).
5. Amendment of article heading filed 6–29–99 as an emergency; operative 6–29–99 (Register 99, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–27–99 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6–29–99 order, including relocation of article 2 heading to precede section 100000.17, renumbering of former section 100000.8 to section 100000.17, and new section 100000.8, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.9. Training Program Director.

"Training program director" means the person who is named in the EMS Authority review and approval application as being the director of a pediatric first aid, CPR and/or preventive health and safety training program. This person is responsible for the administration of the child care pediatric first aid, CPR or preventive health and safety training program that has been approved by the EMS Authority.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1596.791, 1596.90, 1596.866 and 1597.30, Health and Safety Code.

HISTORY

1. New section filed 1–26–95 as an emergency; operative 1–26–95 (Register 95, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–26–95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction renumbering section 10000.9 to 100000.9 (Register 95, No. 8).
3. Certificate of Compliance as to 1–26–95 order including amendment of subsection (b) transmitted to OAL 5–17–95 and filed 6–29–95 (Register 95, No. 26).
4. Amendment filed 6–29–99 as an emergency; operative 6–29–99 (Register 99, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–27–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 6–29–99 order, including renumbering of former section 100000.9 to section 100000.18 and new section 100000.9, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.10. Training Program Instructor.

"Training program instructor" means a person who teaches the approved child care pediatric first aid, CPR, or preventive health and safety training to child care providers, pursuant to the Health and Safety Code Section 1596.866.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1596.791, 1596.90, 1596.866 and 1597.30, Health and Safety Code.

HISTORY

1. New section filed 1–26–95 as an emergency; operative 1–26–95 (Register 95, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–26–95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction renumbering section 10000.10 to 100000.10; and internal reference 10000.9 to 100000.9 (Register 95, No. 8).
3. Certificate of Compliance as to 1–26–95 order transmitted to OAL 5–17–95 and filed 6–29–95 (Register 95, No. 26).
4. Amendment of subsection (a) filed 6–29–99 as an emergency; operative 6–29–99 (Register 99, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–27–99 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 6–29–99 order, including renumbering of former section 100000.10 to section 100000.19 and new section 100000.10, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.11. Pediatric First Aid.

"Pediatric first aid" means the recognition of, and immediate care for injury or sudden illness, including medical emergencies, to an infant or child, prior to the availability of medical care by licensed or certified health care professionals.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1596.866 and 1797.191, Health and Safety Code.

HISTORY

1. New section filed 1–26–95 as an emergency; operative 1–26–95 (Register 95, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–26–95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction renumbering section 10000.11 to 100000.11 (Register 95, No. 8).
3. Certificate of Compliance as to 1–26–95 order transmitted to OAL 5–17–95 and filed 6–29–95 (Register 95, No. 26).
4. Certificate of Compliance as to 6–29–99 order, including renumbering of former section 100000.11 to section 100000.20 and renumbering and amendment of former section 100000.6 to section 100000.11, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.12. Pediatric Cardiopulmonary Resuscitation.

"Pediatric cardiopulmonary resuscitation" or "pediatric CPR" means establishing and maintaining, on an infant or child, an open airway, ensuring adequate respiration either spontaneously or by use of rescue breathing, and ensuring adequate circulation either spontaneously or by means of closed chest cardiac compression. Pediatric CPR includes adult CPR for purposes of children over eight years of age.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Section 1596.866, Health and Safety Code.

HISTORY

1. New section filed 1–26–95 as an emergency; operative 1–26–95 (Register 95, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–26–95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction renumbering section 10000.12 to 100000.12 (Register 95, No. 8).
3. Certificate of Compliance as to 1–26–95 order transmitted to OAL 5–17–95 and filed 6–29–95 (Register 95, No. 26).
4. Amendment of subsection (b) filed 6–29–99 as an emergency; operative 6–29–99 (Register 99, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–27–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 6–29–99 order, including renumbering of former section 100000.12 to section 100000.21 and renumbering and amendment of former section 100000.7 to section 100000.12, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.13. Preventive Health and Safety.

"Preventive health and safety" means the course required for child care providers that encompasses study in recognition, management, and prevention of infectious diseases, including immunizations, and prevention of childhood injuries among children in child care facilities.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Section 1596.866, Health and Safety Code.

HISTORY

1. New section filed 1–26–95 as an emergency; operative 1–26–95 (Register 95, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–26–95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction renumbering section 10000.13 to 100000.13 (Register 95, No. 8).
3. Certificate of Compliance as to 1–26–95 order transmitted to OAL 5–17–95 and filed 6–29–95 (Register 95, No. 26).
4. Certificate of Compliance as to 6–29–99 order, including repealer and new section, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.14. Certificate of Approval.

"Certificate of approval" means the certificate that is issued by the EMS Authority to the approved training program. The certificate shall state that the program is approved to provide child care pediatric first aid, CPR, or preventive health and safety training.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Section 1596.866, Health and Safety Code.

HISTORY

1. New section filed 1–26–95 as an emergency; operative 1–26–95 (Register 95, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–26–95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction renumbering section 10000.14 to 100000.14 (Register 95, No. 8).
3. Certificate of Compliance as to 1–26–95 order including amendment of subsection (b) transmitted to OAL 5–17–95 and filed 6–29–95 (Register 95, No. 26).
4. New subsection (b) and subsection relettering filed 6–29–99 as an emergency; operative 6–29–99 (Register 99, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–27–99 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsection (c) and new subsection (d) filed 7–26–99 as an emergency; operative 7–26–99 (Register 99, No. 31). A Certificate of Compliance must be transmitted to OAL by 11–23–99 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6–29–99 order, including renumbering of former section 100000.14 to section 100000.29 and new section 100000.14, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.15. Course Completion Document.

"Course completion document" means the card, certificate, or other written document issued by an approved training program to a student who has completed the child care pediatric first aid, pediatric CPR, or the preventive health and safety training.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Section 1596.866, Health and Safety Code.

HISTORY

1. New section filed 1–26–95 as an emergency; operative 1–26–95 (Register 95, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–26–95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction renumbering section 10000.15 to 100000.15 (Register 95, No. 8).
3. Certificate of Compliance as to 1–26–95 order transmitted to OAL 5–17–95 and filed 6–29–95 (Register 95, No. 26).
4. Amendment filed 6–29–99 as an emergency; operative 6–29–99 (Register 99, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–27–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 6–29–99 order, including renumbering of former section 100000.15 to section 100000.30 and new section 100000.15, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.16. Course Completion Sticker.

"Course completion sticker" means the EMS Authority sticker that is purchased by the approved training program and its affiliate for pediatric first aid, CPR, or the preventive health and safety training. An appropriate sticker shall be affixed to each course completion document issued by approved training programs and their affiliates for the pediatric first aid, CPR, or preventive health and safety training.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Section 1596.866, Health and Safety Code.

HISTORY

1. New section filed 1–26–95 as an emergency; operative 1–26–95 (Register 95, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–26–95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction renumbering section 10000.16 to 100000.16 (Register 95, No. 8).
3. Certificate of Compliance as to 1–26–95 order transmitted to OAL 5–17–95 and filed 6–29–95 (Register 95, No. 26).
4. Amendment of first paragraph filed 6–29–99 as an emergency; operative 6–29–99 (Register 99, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–27–99 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 6–29–99 order, including renumbering of former section 100000.16 to section 100000.31 and new section 100000.16, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

Article 2. Training Requirements for Child Care Providers

§ 100000.17. Training Requirements for Child Care Providers.

(a) The training requirements for pediatric first aid and CPR for child care providers shall be satisfied by maintaining current certification in pediatric first aid and CPR. Current certification is demonstrated by possession of the following:

(1) A current pediatric first aid course completion card issued either by the American Red Cross or by a training program that has been approved by the EMS Authority, and

(2) A current pediatric CPR course completion card issued either by the American Red Cross or the American Heart Association, or by a training program that has been approved by the EMS Authority.

(b) Retraining in pediatric first aid and CPR shall occur at least every two years.

(c) The training requirements for preventive health and safety for child care providers may be satisfied by completion of a course and certification in preventive health and safety. Certification in preventive health and safety is demonstrated by a child preventive health and safety course completion document issued by an approved training program.

(d) The requirement for taking the preventive health and safety training is one time only.

NOTE: Authority cited: Sections 1596.866, 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1596.866 and 1797.191, Health and Safety Code.

HISTORY

1. New section filed 1–26–95 as an emergency; operative 1–26–95 (Register 95, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–26–95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction renumbering section 10000.17 to 100000.17 (Register 95, No. 8).
3. Certificate of Compliance as to 1–26–95 order transmitted to OAL 5–17–95 and filed 6–29–95 (Register 95, No. 26).
4. Certificate of Compliance as to 6–29–99 order, including relocation and amendment of article 2 heading, renumbering of former section 100000.17 to section 100000.32, and renumbering and amendment of former section 100000.8 to section 100000.17, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

Article 3. Training Program Approval

§ 100000.18. Application Process for Program Review and Approval.

Training programs in pediatric first aid, pediatric CPR, and preventive health and safety shall submit to the EMS Authority the following information when applying for program review and approval:

(a) Name of the program, name of the business (if it is different than the name of the program), business address, telephone number and program director of the training program, institution, organization, or agency;

(b) A resume of the director's education and experience in methods, materials, and evaluation of instruction in the areas of child care training (pediatric first aid, CPR, and preventive health and safety);

(c) Completed application (Form EMS–App100–1/95 for the pediatric first aid and CPR program or Form EMS–App 102–1/99 for the child preventive health and safety program incorporated by reference) with the following attachments:

(1) A copy of the training course curriculum, including any workbooks, videos, textbooks, or handouts if used in the course;

(2) A detailed plan for evaluation of trainee competency;

(3) A detailed plan for evaluation of instructor competency;

(4) A detailed curriculum for instructor training in the pediatric first aid, and CPR, or the preventive health and safety training for child care providers;

(5) A list of all affiliated training programs;

(6) A copy of the business license (if licensed); and

(7) The required fees for program review and EMS Authority course completion stickers.

(d) All program materials specified in this chapter shall be subject to periodic review, evaluation and monitoring by the EMS Authority.

NOTE: Authority cited: Sections 1596.866 and 1797.107, Health and Safety Code. Reference: Sections 1596.866, 1797.113 and 1797.191, Health and Safety Code.

HISTORY

1. New section filed 1–26–95 as an emergency; operative 1–26–95 (Register 95, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–26–95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction renumbering section 10000.18 to 100000.18; and internal reference 10000.8 to 100000.8 (Register 95, No. 8).
3. Certificate of Compliance as to 1–26–95 order transmitted to OAL 5–17–95 and filed 6–29–95 (Register 95, No. 26).
4. Amendment filed 6–29–99 as an emergency; operative 6–29–99 (Register 99, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–27–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 6–29–99 order, including new article 3 heading, repealer of former section 100000.18 and renumbering and amendment of former section 100000.9 to section 100000.18, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.19. Program Approval Documentation.

(a) The EMS Authority shall notify the training program within twenty working days of receiving its request for training program approval, that the request was received and contains the information requested in Section 100000.18 of this Chapter or shall specify what information is missing from the request.

(b) Program approval or disapproval shall be made in writing by the EMS Authority to the applying training program within sixty days of receiving all application information. The training program shall complete all modifications to an application or program required by the EMS Authority before approval can be given.

(c) The EMS Authority shall establish the effective date of training program approval in writing once the training program is reviewed and found in compliance with all program requirements. The EMS Authority shall issue a program approval certificate with the effective date and an expiration date.

(d) Program approval shall be for two years from the last day of the month in which the approval is given.

(e) Approved training programs shall notify the EMS Authority in writing, and within thirty days of any change in course content, hours of instruction, or program director. Advance notice shall be given whenever possible. All changes shall be reviewed and approved by the EMS Authority.

(f) Directors of training programs shall provide a copy of the EMS Authority certificate of training program approval to all of their affiliate programs.

(g) All training programs and their affiliate programs shall show a copy of their EMS Authority certificate of approval to students who are taking their child care provider first aid, CPR, or preventive health and safety training, and to the prospective child care training students who inquire about these training programs.

NOTE: Authority cited: Sections 1596.866 and 1797.107, Health and Safety Code. Reference: Sections 1596.750, 1596.866 and 1797.191, Health and Safety Code.

HISTORY

1. New article 3 (sections 100000.19–100000.23) and section filed 1–26–95 as an emergency; operative 1–26–95 (Register 95, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–26–95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction renumbering section 10000.19 to 100000.19 (Register 95, No. 8).
3. Editorial correction of HISTORY NOTE 1 (Register 95, No. 8).
4. Certificate of Compliance as to 1–26–95 order transmitted to OAL 5–17–95 and filed 6–29–95 (Register 95, No. 26).

5. Amendment of section heading and subsection (a) filed 6–29–99 as an emergency; operative 6–29–99 (Register 99, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–27–99 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6–29–99 order, including renumbering of former article 3 heading to article 4, renumbering of former section 100000.19 to section 100000.22, and renumbering and amendment of former section 100000.10 to section 100000.19, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.20. Withdrawal of Program Approval.

Failure to comply with any requirement for program approval, use of any unqualified teaching personnel, or noncompliance with any other applicable provision of this Chapter may result in probation, suspension, revocation, or denial of renewal of program approval by the EMS Authority following the provisions of the Administrative Procedure Act, Section 11500 et. Seq. of the Government Code. An approved training program shall have no more than thirty (30) days from date of written notice to comply with this chapter.

NOTE: Authority cited: Sections 1596.866, 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1596.866 and 1797.191, Health and Safety Code.

HISTORY

1. New section filed 1–26–95 as an emergency; operative 1–26–95 (Register 95, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–26–95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction renumbering section 10000.11 to 100000.11 (Register 95, No. 8).
3. Certificate of Compliance as to 1–26–95 order transmitted to OAL 5–17–95 and filed 6–29–95 (Register 95, No. 26).
4. Certificate of Compliance as to 6–29–99 order, including renumbering of former section 100000.20 to section 100000.24, and renumbering of former section 100000.11 to section 100000.20, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

Article 4. Training Program Director and Instructor Requirements

§ 100000.21. Director Requirements.

Each training program shall have an approved program director who shall be qualified by education and experience in methods, materials, and evaluation of instruction. Duties of the program director shall include but not be limited to:

(a) Administering the training program.

(b) Approving course content.

(c) Approving all written and skills examinations.

(d) Coordinating all instructional activities related to the course.

(e) Approving and monitoring instructor training.

(f) Approving, monitoring, and evaluating all instructors and affiliate program directors.

(g) Notifying in writing their affiliate programs of all policies, curriculum changes, and regulations that are issued by the EMS Authority.

(h) Assuring that all aspects of the training program are in compliance with this Chapter and other related laws.

NOTE: Authority cited: Sections 1596.866 and 1797.107, Health and Safety Code. Reference: Sections 1596.750, 1596.866 and 1797.191, Health and Safety Code.

HISTORY

1. New section filed 1–26–95 as an emergency; operative 1–26–95 (Register 95, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–26–95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction renumbering section 10000.12 to 100000.12 (Register 95, No. 8).
3. Certificate of Compliance as to 1–26–95 order transmitted to OAL 5–17–95 and filed 6–29–95 (Register 95, No. 26).
4. Amendment of subsection (b) filed 6–29–99 as an emergency; operative 6–29–99 (Register 99, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–27–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 6–29–99 order, including renumbering and amendment of former article 3 heading to article 4, renumbering of former section 100000.21 to section 100000.23, and renumbering and amendment of former section 100000.21 to section 100000.23, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.22. Requirements for Instructor Training for Pediatric First Aid and CPR.

(a) Only instructors who possess a current pediatric first aid and CPR card shall teach EMSA–approved pediatric first aid and CPR training program courses.

(b) Approved training programs shall determine which of the following hours of training are required for instructors, based on competency in essential knowledge and skills and previous hours of training in relevant courses.

(1) Eight hours of training in the approved program curriculum are required for instructor certification/authorization after completion of first aid and CPR training and/or demonstrated competency in essential skills.

(2) Thirty–two hours of training are required for instructor certification/authorization if applicant has no prior training and/or demonstrated competency in essential skills.

(c) This training shall be provided by the approved training program that is hiring, franchising, or affiliating with an instructor. The training shall be given as a condition of hiring, franchising, or affiliating with an instructor, and shall include, but not be limited to, the course content specified in Section 100000.23 of this chapter.

(d) Each training organization shall maintain written verification of instructor qualifications for each certified instructor.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1597.866 and 1797.191, Health and Safety Code.

HISTORY

1. New section filed 1–26–95 as an emergency; operative 1–26–95 (Register 95, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–26–95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction renumbering section 10000.22 to 100000.22 (Register 95, No. 8).
3. Certificate of Compliance as to 1–26–95 order including amendment of subsection (b) transmitted to OAL 5–17–95 and filed 6–29–95 (Register 95, No. 26).
4. Renumbering of former section 100000.22 to section 100000.24 and new section 100000.22 filed 6–29–99 as an emergency; operative 6–29–99 (Register 99, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–27–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 6–29–99 order, including renumbering of former section 100000.22 to section 100000.25, and renumbering and amendment of former section 100000.19 to section 100000.22, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.23. Required Course Content for Pediatric First Aid and CPR Instructor Training.

(a) The training program for instructors shall include, but not be limited to, the following topics:

(1) Teaching methods;

(2) Teaching presentation and student assessment;

(3) Child development impact and issues;

(4) Administrative and quality assurance;

(5) Participant health and safety, including care and use of manikins;

(6) Issues of cultural sensitivity;

(7) Assurance that child care context is part of all content areas; and

(8) Topics and skills specified in Section 100000.30(a).

(b) The training program for instructors shall also assess and evaluate an instructor's ability to teach the following essential skills:

(1) Primary assessment, including management of suspected head and neck injuries;

(2) Rescue breathing;

(3) Techniques for response to choking (conscious and unconscious children);

(4) Techniques for controlling bleeding;

(5) Pediatric CPR; and

(6) Splinting of fractures and sprains.

(c) The training program shall assess and evaluate an instructor's teaching presentation and competency at assessing student skills.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1596.798, 1596.866, 1596.8661 and 1797.191, Health and Safety Code; and Section 3765, Business and Professions Code.

HISTORY

1. New section filed 1–26–95 as an emergency; operative 1–26–95 (Register 95, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–26–95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction renumbering section 10000.23 to 100000.23 (Register 95, No. 8).
3. Certificate of Compliance as to 1–26–95 order transmitted to OAL 5–17–95 and filed 6–29–95 (Register 95, No. 26).
4. Renumbering of former section 100000.23 to new section 100000.25 and renumbering of former section 100000.21 to section 100000.23, including amendment of first paragraph, filed 6–29–99 as an emergency; operative 6–29–99 (Register 99, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–27–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 6–29–99 order, including renumbering of former section 100000.23 to section 100000.26, and renumbering and amendment of former section 100000.21 to section 100000.23, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.24. Requirements for Instructor Training for Child Preventive Health and Safety.

(a) Only instructors who possess a current pediatric first aid and CPR card shall teach approved child preventive health and safety training program courses. In addition, all child preventive health and safety instructors shall have completed a minimum of twenty–four hours of child preventive health and safety training that included, but is not limited to, the course content specified in Section 100000.30(b) of this chapter, within twelve months prior to beginning to teach an approved program. Until January 1, 2001, the twenty–four hours of training may include preventive health and safety training given by the instructor.

(b) Approved training programs shall determine which of the following hours of training are required for instructors, based on competency in essential knowledge and skills and previous hours of training in relevant courses.

(1) Eight hours of training in the approved program curriculum are required for instructor certification/authorization if applicant has previous instructor training after completion of first aid, CPR, and preventive health and safety training and/or demonstrated competency in essential skills.

(2) Twenty–four hours of training are required for instructor certification/authorization if applicant has no prior instructor training and/or demonstrated competency in essential skills.

(c) The training required in subsection (b) of this section shall be provided by the approved training program that is hiring, franchising or affiliating with an instructor. The training shall be given as a condition of hiring, franchising or affiliating with an instructor, and shall include, but not be limited to, the course content specified in Section 100000.25 of this chapter.

(d) Each training organization shall maintain written verification of instructor qualifications for each certified instructor.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1596.866, 1597.866 and 1797.191, Health and Safety Code.

HISTORY

1. New article 4 (section 100000.24) and section filed 1–26–95 as an emergency; operative 1–26–95 (Register 95, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–26–95 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction renumbering section 10000.24 to 100000.24; and internal reference 10000.8 to 100000.8 (Register 95, No. 8).
3. Editorial correction of HISTORY NOTE 1 (Register 95, No. 8).
4. Certificate of Compliance as to 1–26–95 order transmitted to OAL 5–17–95 and filed 6–29–95 (Register 95, No. 26).
5. Renumbering of former section 100000.24 to new section 100000.26, including repositioning of article 4 heading, and renumbering of former section 100000.22 to section 100000.24 filed 6–29–99 as an emergency; operative 6–29–99 (Register 99, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–27–99 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 6–29–99 order, including renumbering of former section 100000.24 to section 100000.27, and renumbering and amendment of former section 100000.20 to section 100000.24, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.25. Required Course Content for Child Preventive Health and Safety Instructor Training.

The training program for instructors shall include, but not be limited to the following topics:

(a) Teaching methods for adult students;
(b) Teaching presentation and student assessment;
(c) Child development impact and issues;
(d) Administrative and training quality assurance;
(e) Topics and skills specified in Section 100000.30(b);
(f) Issues of cultural awareness and sensitivity;
(g) Assurance that child care context is part of all content areas;
(h) Knowledge of child care; and
(i) Knowledge of child care statutes and regulations.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1596.866 and 1797.191, Health and Safety Code.

HISTORY

1. Renumbering of former section 100000.23 to new section 100000.25 filed 6–29–99 as an emergency; operative 6–29–99 (Register 99, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–27–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–29–99 order, including renumbering of former section 100000.25 to section 100000.28, and renumbering and amendment of former section 100000.22 to section 100000.25, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.26. Methodology for Evaluation of Instructor Competence.

Methods to evaluate instructor competence shall include, but not be limited to, the following:

(a) Demonstration of mastery in all curriculum areas;
(b) Essential knowledge and skills assessment; and
(c) Use of problem solving scenarios as teaching tools.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1596.866 and 1797.191, Health and Safety Code.

HISTORY

1. Renumbering of former section 100000.24 to new section 100000.26, including amendment and repositioning of article 4 heading, and repealer and new section filed 6–29–99 as an emergency; operative 6–29–99 (Register 99, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–27–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–29–99 order, including repealer of article 4 heading, renumbering of former section 100000.26 to section 100000.35, and renumbering of former section 100000.23 to section 100000.26, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.27. Instructor Certification/Authorization Requirements.

(a) Approved training programs shall issue certification cards that document certification of instructors. Certification cards shall contain an expiration date not to exceed two years from the date of instructor certification.

(b) Approved training programs shall evaluate their instructors, determine the number of retraining hours needed, and provide retraining to their instructors in any of the course content specified in Sections 100000.23 and 100000.25.

(c) Approved training programs shall issue recertification cards upon expiration of original certification, to document recertification of qualified instructors. These recertification cards shall contain an expiration date not to exceed two years from the date of instructor recertification.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1596.866 and 1797.191, Health and Safety Code.

HISTORY

1. New article 5 (sections 100000.27–100000.28) and section filed 6–29–99 as an emergency; operative 6–29–99 (Register 99, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–27–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–29–99 order, including repealer of article 5 heading, repealer of former section 100000.27, and renumbering and amend-

ment of former section 100000.24 to section 100000.27, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.28. Monitoring of Instructors.

(a) Methods to monitor certified instructors by training organizations shall include, but not be limited to, review of student evaluations and periodic direct observation of provider training.

(b) Training organizations shall have an agreement of understanding with their program instructors specifying that the instructors shall teach according to the stated organization standards. These agreements shall be signed by the program instructor and program director.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1596.866 and 1797.191, Health and Safety Code.

HISTORY

1. New section filed 6–29–99 as an emergency; operative 6–29–99 (Register 99, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–27–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–29–99 order, including renumbering of former section 100000.28 to section 100000.33, and renumbering and amendment of former section 100000.25 to section 100000.28, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

Article 5. Course Hours and Class Requirements

§ 100000.29. Course Hours and Class Size Requirements.

(a) The initial course of instruction shall consist of not less than eight hours in pediatric first aid and pediatric CPR. Training programs teaching pediatric first aid only are allowed with instruction in pediatric first aid to consist of not less than four hours in addition to a minimum of four hours of pediatric CPR. The eight hour course shall consist of no less than four hours of pediatric first aid and no less than four hours of pediatric CPR. Training programs may teach these four hour courses in pediatric first aid and pediatric CPR separately.

(b) Retraining in pediatric first aid and CPR shall consist of no less than four hours of pediatric first aid and no less than four hours of pediatric CPR. Retraining in pediatric first aid and CPR shall be completed at least every two years.

(c) The course of instruction in child preventive health and safety shall consist of no less than seven hours. The requirement for taking this course is one time only.

(d) The class size ratio for pediatric first aid and pediatric CPR shall not exceed one instructor to twelve students for the skills practice and evaluation components of the curriculum.

(e) The class size ratio for preventive health and safety training shall not exceed one instructor to thirty students.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1596.866 and 1797.191, Health and Safety Code.

HISTORY

1. Certificate of Compliance as to 6–29–99 order, including new article 5 heading and renumbering and amendment of former section 100000.14 to new section 100000.29, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.30. Required Course Content.

(a) The course content for pediatric first aid and CPR shall include instruction to result in competence in the following topics and skills, which shall prepare personnel within the child care setting to recognize and treat the ill or injured child, as follows:

(1) Patient examination and injury assessment principles;

(2) Orientation and access to the emergency medical services system;

(3) Recognition and treatment of:

(A) Burns;

(B) Environmental exposure;

(C) Bleeding;

(D) Bites and stings (including human, animal, snake, insect and marine life);

(E) Fainting and seizures;

(F) Dental emergencies;

(G) Diabetic emergencies;

(H) Eye injuries and irritants;

(I) Head and neck injuries;

(J) Respiratory distress (including use of inhaled medications and nebulizers for children with lung diseases);

(K) Fractures and sprains;

(L) Exposure and response to toxic substances;

(M) Shock management; and

(N) Wounds (including cuts, bruises, scrapes, punctures, slivers, penetrating injuries from foreign objects, amputations and avulsions).

(4) Assembly and use of first aid kits and supplies;

(5) Understanding of standard precautions and personal safety in giving emergency care;

(6) First aid action plan within a group care setting (including classroom management while caring for an injured or ill child);

(7) Injury reporting;

(8) Reassuring parents and children in an emergency situation; and

(9) How to talk to young children about emergencies and instructing children in the emergency action plan.

(b) The course content for preventive health and safety training shall include instruction to result in competence in the following topics and skills, which shall prepare personnel to recognize, manage, and prevent infectious diseases and childhood injuries as follows:

(1) Prevention of Infectious Disease.

(A) Standard precautions.

1. Sanitation;
2. Hand washing; and
3. Use of gloves.

(B) Hygiene for children and care givers.

1. Hand washing; and
2. Diapering.

(C) Childhood immunizations; i.e., age and type requirements.

(D) Maintenance of health records and forms.

(E) Process for review of medical form information, including medication administration, allergies, immunizations, and health insurance; and

(F) Infectious disease policies.

1. Notices for exposure to disease;
2. Guidelines for the exclusion/inclusion of sick children;
3. Diseases that should be reported to local health agencies and to child care facility children's parents;
4. Guidelines for managing mildly ill children; and
5. Guidelines for staff health regarding potential risk of infectious diseases, including but not limited to cytomegalovirus (CMV) and Hepatitis B.

(G) Community Resources, to include information on local resources for services that deal with children's health and the prevention of infectious disease shall be given to trainees by the training instructor.

(2) Child Injury Prevention

(A) Risk of injury related to developmental stages (i.e., falling, choking, head injuries);

(B) Establishing and adhering to safety policies in the child care setting;

(C) Procedures to reduce the risks of Sudden Infant Death Syndrome (SIDS) and Shaken Baby Syndrome;

(D) Managing children's risky behaviors that can lead to injury;

(E) Regular assessments for the safety of indoor and outdoor child care environments and play equipment; and

(F) Transportation of children during child care.

1. Motor vehicle safety;
2. Child passenger safety;
3. Field trip safety; and
4. School bus safety.

(G) Community resources, to include information on local resources for services that deal with children's health and the prevention of childhood injuries shall be given to trainees by the training instructor.

(H) Child abuse resources, i.e., where to go in your community for help and information regarding child abuse.

(c) The course content for preventive health training may include instruction in the following:

(1) Children's nutrition, i.e., age–appropriate meal planning to ensure nutritional requirements and the correct portions of food for monitoring children's food intake.

(A) The food pyramind and how to apply it to children;

(B) Appropriate eating behaviors for children (i.e., snacking); and

(C) Specialized diets, including diet restrictions based upon medical needs. These medical needs include but are not limited to food allergies and diabetes.

(D) Awareness of feeding/growth problems such as failure–to–thrive.

(E) The connection between diet and dental decay in children.

(2) Environmental sanitation.

(A) Vector prevention;

(B) Kitchen cleanliness and sanitation practices;

(C) Toilet and diapering area sanitation.

(3) Air quality.

(A) Hazards of smoking (including, second hand smoke);

(B) Importance of keeping air filters clean;

(C) Importance of fresh air;

(D) Hazards of use of fireplaces; and

(E) The connection between allergens and children's respiratory illnesses, and how to reduce airborne allergens.

(4) Food quality.

(A) Safe food practices;

(B) Safe food handling;

(C) Cooking safety;

(D) Preparing foods safely (i.e., washing produce; keeping raw meats and utensils used on raw meats away from cooked foods or foods that will be eaten raw; the importance of keeping cold foods cold, and hot foods hot);

(E) Safe storage of food (including prevention of lead poisoning);

(F) Fully cooking meats and eggs;

(G) Use of only pasteurized fruit juices; and

(H) Dangers of e. coli and salmonella.

(5) Water quality.

(6) Children with special needs.

(A) Knowledge of resources for services for children with special health care needs; and

(B) Knowledge of the Americans with Disabilities Act, and how it pertains to children with special needs in child care.

(7) Community resources, knowledge of city, county and state resources, both non–profit and governmental, for services for children.

(8) Child abuse identification and prevention.

(A) Child abuse mandated reporting requirements;

(B) Signs of child abuse and neglect; and

(C) Care giver stress and the relation of this to abuse issues.

(9) Procedures to reduce the risks of the following injuries, including but not limited to: burns, choking, falls, poisonings (lead, iron, acetaminophen, and other medications), oral injury, suffocation, drowning, injuries from weapons, and injuries from animals.

(10) Earthquake and emergency preparedness.

(A) Preparing the child care for major disasters; and

(B) Community resources for gaining information regarding preparing for disasters and/or assistance in case of a disaster.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1596.798, 1596.8661, 1597.866 and 1797.191, Health and Safety Code; and Section 3765, Business and Professions Code.

HISTORY

1. Certificate of Compliance as to 6–29–99 order, including renumbering and amendment of former section 100000.15 to new section 100000.30, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.31. Essential Skills Practice and Evaluation.

The pediatric first aid and CPR training program shall include practice and evaluation of the following skills:

(a) Primary assessment, including management of suspected head and neck injuries.

(b) Care for pediatric choking victims, both conscious and unconscious.

(c) Control of bleeding.

(d) Splinting and care for fractures, sprains, strains and dislocated joints.

(e) Pediatric CPR.

(f) Pediatric rescue breathing.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1597.866 and 1797.191, Health and Safety Code.

HISTORY

1. Certificate of Compliance as to 6–29–99 order, including renumbering and amendment of former section 100000.16 to new section 100000.31, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.32. Methodology for Evaluation of Trainee Competency.

Each training program shall develop, and submit as part of the course, a plan for evaluating trainee competence in all content and skills areas. Following are methods which may be used to evaluate competency:

(a) Self evaluation in conjunction with other methods.

(b) Demonstration of mastery other than written.

(c) Written skills test with option for oral testing.

(d) Use of problem solving scenarios.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1597.866 and 1797.191, Health and Safety Code.

HISTORY

1. Certificate of Compliance as to 6–29–99 order, including renumbering and amendment of former section 100000.17 to new section 100000.32, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

Article 6. Class Rosters, Course Completion Documents and Stickers

§ 100000.33. Class Rosters.

Each EMS Authority–approved pediatric first aid and CPR training program and child preventive health and safety training program shall submit class rosters to the EMS Authority for each of the pediatric first aid and CPR training sessions and for each of the child preventive health and safety training sessions, within 30 calendar days of course completion. These class rosters shall include the name, address, and phone number of each student of the training. The rosters shall also include the serial number listed on the course completion sticker that is issued to each student upon the completion of the training.

NOTE: Authority cited: Sections 1797.107 and 1797.191, Health and Safety Code. Reference: Sections 1596.866 and 1797.191, Health and Safety Code.

HISTORY

1. Certificate of Compliance as to 6–29–99 order, including new article 6 heading and renumbering and amendment of former section 100000.28 to new section 100000.33, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

§ 100000.34. Course Completion Documents and Stickers.

(a) Approved programs in pediatric first aid, CPR and preventive health and safety practices training shall place pre–printed stickers from the EMS Authority on their course completion documents. The stickers verify that the training program is EMS Authority–approved, indicate which training the student completed, and assigns a tracking number to the course completion document.

(b) Affiliate programs shall order their course completion stickers from the EMS Authority.

(c) Approved programs that have affiliate programs are responsible for providing a complete list of their affiliate programs, including the instructor names, program names, business addresses and business telephone numbers to the EMS Authority.

(d) Affiliate programs shall complete and submit to the EMS Authority the first page of the application (EMS–APP100–1/95, Rev. 3/99 and EMS–APP102–1/99, Rev. 10/99) and a course completion sticker order form (EMS–900, Rev. 8/99) and turn this into the EMS Authority prior to purchasing course completion stickers.

(e) Course completion documents with the appropriate EMS Authority course completion stickers for the child care training in pediatric first aid, CPR and preventive health and safety training shall be issued by the training program to the student within 21 calendar days after the training is completed.

(f) The course completion documents for pediatric first, CPR, and preventive health and safety training shall have the name of the program training director, the name and signature of the course instructor, the course completion date and expiration date.

NOTE: Authority cited: Sections 1797.107, 1797.113 and 1797.191, Health and Safety Code. Reference: Sections 1596.866, 1797.113 and 1797.191, Health and Safety Code.

HISTORY

1. New section filed 12–8–99; operative 12–8–99 pursuant to Government Code section 11343.4(d) (Register 99, No. 50).

Article 7. Fees

§ 100000.35. Fees.

Each training program submitting an application (Forms EMS–App 100–1/95, Rev. 3/99 and EMS–App 102–1/99, Rev. 10/99) for program review, shall be assessed a fee of:

(a) Two hundred and forty ($240) dollars for the initial training program review, for the pediatric first aid and CPR training course. Training programs that have been reviewed and approved by the EMS Authority will receive 40 course completion stickers, at no extra cost, for their $240 review fee.

(b) Two hundred and forty ($240) dollars for the initial training and program review of the preventive health and safety training course. Training programs that have been reviewed and approved by the EMS Authority will receive 40 course completion stickers, at no extra cost, for their $240 review fee.

(c) Two hundred and forty ($240) dollars for the biannual training review for the pediatric first aid and CPR training course. Training programs that have been reviewed and approved by the EMS Authority will receive 40 course completion stickers, at no extra cost, for their $240 review fee.

(d) Two hundred and forty ($240) dollars for the biannual training review for the preventive health training course. Training programs that have been reviewed and approved by the EMS Authority will receive 40 course completion stickers, at no extra cost, for their $240 review fee.

(e) Three dollars for each (pediatric first aid, pediatric CPR, and/or preventive health and safety) preprinted course completion sticker, to be issued by the approved program to students upon course completion.

NOTE: Authority cited: Sections 1797.107, 1797.113 and 1797.191, Health and Safety Code. Reference: Sections 1596.866, 1797.113 and 1797.191, Health and Safety Code.

HISTORY

1. Certificate of Compliance as to 6–29–99 order, including renumbering and amendment of former article 4 heading to new article 7, and renumbering and amendment of former section 100000.26 to new section 100000.35, transmitted to OAL 10–25–99 and filed 12–8–99 (Register 99, No. 50).

[The next page is 1366.3.]

Chapter 1.2. First Aid Testing for School Bus Drivers

Article 1. Definitions

§ 100001. First Aid.

"First Aid" means the recognition of and immediate care for injury or sudden illness prior to the availability of emergency medical care by licensed or certified health care professionals.

NOTE: Authority cited: Section 12522, Vehicle Code. Reference: Section 12522, Vehicle Code.

(Section filed 8–29–86, operative 9–28–86; Register 86, No. 35)

§ 100002. Pre–Established Standard.

Pre–established standard means a determined passing score established by the testing agency prior to the commencement of the examination.

NOTE: Authority cited: Section 12522, Vehicle Code. Reference: Section 12522, Vehicle Code.

(Section filed 8–29–86, operative 9–28–86; Register 86, No. 35)

Article 2. General

§ 100003. Application of Chapter to School Bus Drivers.

All school bus drivers shall demonstrate proficiency in first aid practices by successfully completing in accordance with pre–established standards, a competency based written examination administered by the California Highway Patrol, in addition to any other requirement for a school bus driver's certificate.

NOTE: Authority cited: Section 12522, Vehicle Code. Reference: Section 12522, Vehicle Code.

(Section filed 8–29–86, operative 9–28–86; Register 86, No. 35)

Article 3. Examination Standards

§ 100004. First Aid Practices Proficiency.

The examination administered by the California Highway Patrol in first aid practices shall test an applicant's ability to recognize and render first aid in the following emergency medical situations:

(a) Respiratory emergencies: obstructed airway and difficulty breathing;

(b) Cardiac arrest: severe allergic reaction and shock;

(c) Traumatic emergencies: open wounds, penetrating or blunt injuries of chest and abdomen, suspected fractures and dislocations; burns; suspected internal bleeding and suspected spinal injuries;

(d) Poisonings: drug or alcohol overdose;

(e) Altered consciousness: diabetic emergencies and convulsions;

(f) Environmental emergencies: heat illness and hypothermia; and

(g) Knowledge of EMS system access (utilization of emergency phone number: "9–1–1").

NOTE: Authority cited: Section 12522, Vehicle Code. Reference: Section 12522, Vehicle Code.

(Section filed 8–29–86, operative 9–28–86; Register 86, No. 35)

Chapter 1.5. First Aid Standards for Public Safety Personnel

Article 1. Definitions

§ 100005. Automated External Defibrillator or AED.

"Automated External Defibrillator or AED" means an external defibrillator capable of cardiac rhythm analysis which will charge and deliver a shock either automatically or by user interaction after electronically detecting and assessing ventricular fibrillation or rapid ventricular tachycardia.

NOTE: Authority cited: Section 1797.107, Health and Safety Code. Reference: Sections 1797.52, 1797.182 and 1797.183, Health and Safety Code; and Section 13518, Penal Code.

HISTORY

1. New section filed 11–30–87; operative 12–30–87 (Register 87, No. 49). For prior history, see Register 87, No. 10.
2. Amendment of section heading and section filed 5–18–2000; operative 6–17–2000 (Register 2000, No. 20).

§ 100006. Public Safety AED Service Provider.

"Public Safety AED Service Provider" means an agency, or organization which is responsible for, and is approved to operate, an AED.

NOTE: Authority cited Sections 1797.107, 1797.182 and 1797.183, Health and Safety Code. Reference: Sections 1797.182 and 1797.183, Health and Safety Code; and Section 13518, Penal Code.

HISTORY

1. New section filed 11–30–87; operative 12–30–87 (Register 87, No. 49).
2. Renumbering of former section 100006 to section 100007 and new section 100006 filed 5–18–2000; operative 6–17–2000 (Register 2000, No. 20).

§ 100007. Cardiopulmonary Resuscitation.

"Cardiopulmonary resuscitation" or "CPR" means establishing and maintaining an open airway, ensuring adequate respiration either spontaneously or by use of rescue breathing, and ensuring adequate circulation either spontaneously or by means of closed chest cardiac compression, according to standards promulgated by the American Heart Association and/or the American Red Cross.

NOTE: Authority cited Section 1797.107, Health and Safety Code. Reference: Sections 1797.182 and 1797.183, Health and Safety Code; and Section 13518, Penal Code.

HISTORY

1. New section filed 11–30–87; operative 12–30–87 (Register 87, No. 49). For prior history, see Register 87, No. 10.
2. Renumbering of former section 100007 to section 100008 and renumbering of former section 100006 to section 100007 filed 5–18–2000; operative 6–17–2000 (Register 2000, No. 20).

§ 100008. Firefighter.

"Firefighter" means any regularly employed and paid officer, employee or member of a fire department or fire protection or firefighting agency of the State of California, or any city, county, city and county, district or other public or municipal corporation or political subdivision of California or any member of an emergency reserve unit of a volunteer fire department or fire protection district.

NOTE: Authority cited: Section 1797.107, Health and Safety Code. Reference: Section 1797.182, Health and Safety Code.

HISTORY

1. New section filed 11–30–87; operative 12–30–87 (Register 87, No. 49). For prior history, see Register 87, No. 10.
2. Renumbering of former section 100008 to section 100009 and renumbering of former section 100007 to section 100008 filed 5–18–2000; operative 6–17–2000 (Register 2000, No. 20).

§ 100009. First Aid.

"First aid" means the recognition of and immediate care for injury or sudden illness, including medical emergencies, prior to the availability of medical care by licensed or certified health care professionals.

NOTE: Authority cited: Section 1797.107, Health and Safety Code. Reference: Sections 1797.182 and 1797.183, Health and Safety Code; and Section 13518, Penal Code.

HISTORY

1. New section filed 11–30–87; operative 12–30–87 (Register 87, No. 49). For prior history, see Register 87, No. 10.
2. Renumbering of former section 100009 to section 100010 and renumbering of former section 100008 to section 100009 filed 5–18–2000; operative 6–17–2000 (Register 2000, No. 20).

§ 100010. Lifeguard.

"Lifeguard" means any regularly employed and paid officer, employee, or member of a public aquatic safety department or marine safety agency of the State of California, or any city, county, city and county, district or other public or municipal corporation or political subdivision of California.

NOTE: Authority cited: Section 1797.107, Health and Safety Code. Reference: Section 1797.182, Health and Safety Code.

HISTORY

1. New section filed 11–30–87; operative 12–30–87 (Register 87, No. 49).
2. Repealer of former section 100010 and renumbering of former section 100009 to section 100010 filed 5–18–2000; operative 6–17–2000 (Register 2000, No. 20).

§ 100011. Peace Officer.

"Peace officer" means any city police officer, sheriff, deputy sheriff, peace officer member of the California Highway Patrol, marshal or deputy marshal or police officer of a district authorized by statute to maintain a police department or other peace officer required by law to complete the training specified in this Chapter.

NOTE: Authority cited: Section 1797.107, Health and Safety Code. Reference: Section 1797.183, Health and Safety Code; and Section 13518, Penal Code.

HISTORY

1. New section filed 11–30–87; operative 12–30–87 (Register 87, No. 49). For prior history, see Register 87, No. 10.
2. Amendment filed 5–18–2000; operative 6–17–2000 (Register 2000, No. 20).

§ 100012. Primarily Clerical or Administrative.

"Primarily clerical or administrative" means the performance of clerical or administrative duties for ninety percent (90%) or more of the time worked within each pay period.

NOTE: Authority cited: Section 1797.107, Health and Safety Code. Reference: Sections 1797.182 and 1797.183, Health and Safety Code; and Section 13518, Penal Code.

HISTORY

1. New section filed 11–30–87; operative 12–30–87 (Register 87, No. 49).

§ 100013. Qualified Instructor.

"Qualified instructor" is a trained individual who shall be certified to teach first aid and/or CPR by the approving authority specified in Section 100026 of this Chapter.

NOTE: Authority cited: Section 1797.107, Health and Safety Code. Reference: Sections 1797.182 and 1797.183, Health and Safety Code; and Section 13518, Penal Code.

HISTORY

1. New section filed 11–30–87; operative 12–30–87 (Register 87, No. 49). For prior history, see Register 87, No. 10.

§ 100014. Regularly Employed.

"Regularly employed" means being given wages, salary, or other remuneration for the performance of those duties normally carried out by lifeguards, firefighters, or peace officers.

NOTE: Authority cited: Section 1797.107, Health and Safety Code. Reference: Sections 1797.182 and 1797.183, Health and Safety Code.

HISTORY

1. New section filed 11–30–87; operative 12–30–87 (Register 87, No. 49).

Article 2. General Training Provisions

§ 100015. Application and Scope.

Except those whose duties are primarily clerical or administrative, the following regularly employed public safety personnel shall be trained to administer first aid, and cardiopulmonary resuscitation, according to the standards set forth in this Chapter:

(a) lifeguard;

(b) firefighter;

(c) peace officer.

NOTE: Authority cited: Section 1797.107, Health and Safety Code. Reference: Sections 1797.182 and 1797.183, Health and Safety Code; and Section 13518, Penal Code.

HISTORY

1. New section filed 11–30–87; operative 12–30–87 (Register 87, No. 49). For prior history, see Register 87, No. 10.
2. Repealer of former section 100015 and renumbering of former section 100016 to section 100015 filed 5–18–2000; operative 6–17–2000 (Register 2000, No. 20).

§ 100016. Training Programs in Operation.

Training programs in operation prior to the effective date of these regulations shall submit evidence of compliance with this Chapter to the appropriate approving authority as specified in Section 100026 of this Chapter within six (6) months after the effective date of these regulations.

NOTE: Authority cited: Section 1797.107, Health and Safety Code. Reference: Sections 1797.182 and 1797.183, Health and Safety Code; and Section 13518, Penal Code.

HISTORY

1. New section filed 11–30–87; operative 12–30–87 (Register 87, No. 49).
2. Renumbering of former section 100016 to section 100015 and renumbering of former section 100017 to section 100016 filed 5–18–2000; operative 6–17–2000 (Register 2000, No. 20).

§ 100017. Time Limitation for Initial Training.

The initial training requirements specified in this Chapter shall be satisfactorily completed within one (1) year from the effective date of the individual's initial employment and, whenever possible, prior to assumption of regular duty in one of the personnel categories set forth in Section 100016 of this Chapter.

NOTE: Authority cited: Section 1797.107, Health and Safety Code. Reference: Sections 1797.182 and 1797.183, Health and Safety Code; and Section 13518, Penal Code.

HISTORY

1. New section filed 11–30–87; operative 12–30–87 (Register 87, No. 49). For prior history, see Register 87, No. 10.
2. Renumbering of former section 100017 to section 100016 and renumbering of former section 100018 to section 100017 filed 5–18–2000; operative 6–17–2000 (Register 2000, No. 20).

Article 3. Training Standards

§ 100018. Scope of Course.

(a) The initial course of instruction shall at a minimum consist of not less than fifteen (15) hours in first aid and six (6) hours in cardiopulmonary resuscitation.

(b) The course of instruction shall include, but need not be limited to, the following scope of course which shall prepare personnel specified in Section 100016 of this Chapter to recognize the injury or illness of the individual and render assistance:

(1) Emergency action principles which describe the basic problems of decision making in first aid;

(2) First aid for medical emergencies, including sudden illnesses;

(3) Cardiac and respiratory emergencies, including cardiac and/or respiratory failures in victims of all ages;

(4) First aid for traumatic injuries including wounds, and life threatening bleeding;

(5) First aid for specific injuries, including care for specific injuries to different parts of the body;

(6) Bandaging, including materials and guidelines used in bandaging;

(7) First aid for environmental emergencies including burns, heat and chemical burns, electrical emergencies and exposure to radiation, or climatic changes;

(8) First aid for injuries to bones, muscles, and joints;

(9) Emergency rescue and transfer;

(10) First aid for obstetrical emergencies.

NOTE: Authority cited: Section 1797.107, Health and Safety Code. Reference: Sections 1797.182 and 1797.183, Health and Safety Code; and Section 13518, Penal Code.

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HISTORY
1. New section filed 11-30-87; operative 12-30-87 (Register 87, No. 49).
2. Renumbering of former section 100018 to section 100017 and renumbering of former section 100019 to section 100018 filed 5-18-2000; operative 6-17-2000 (Register 2000, No. 20).

§ 100019. Required Topics.

The content of the training course shall include at least the following topics and shall be skill-oriented:

(a) Examination and assessment of the victim;

(b) Orientation to the EMS System;

(c) Suspected heart attack or stroke;

(d) Fainting, convulsions, and/or suspected drug abuse;

(e) Heat exhaustion, heat stroke, hypothermia and frost bite;

(f) Mouth to mouth breathing and care for choking victims whether conscious or unconscious;

(g) Types of wounds and control of bleeding;

(h) Shock, and its causes, infection and closed wounds;

(i) Eye, face, scalp, jaw and ear injuries;

(j) Injuries of the head, neck, back, trunk, arms and legs;

(k) Exposure to toxic substances;

(l) Bites and stings by snakes, marine life and insects;

(m) Bandaging techniques, first aid kits and supplies;

(n) Determination of the severity of burns, including first, second, and third degree burns;

(o) Fractures, both open and closed, splinting, and care for fractures, sprains, strains and dislocated joints;

(p) Techniques of cardiopulmonary resuscitation; and

(q) Obstetrical emergencies.

NOTE: Authority cited: Section 1797.107, Health and Safety Code. Reference: Sections 1797.182 and 1797.183, Health and Safety Code; and Section 13518, Penal Code.

HISTORY
1. New section filed 11-30-87; operative 12-30-87 (Register 87, No. 49). For prior history, see Register 87, No. 10.
2. Renumbering of former section 100019 to section 100018 and renumbering of former section 100020 to section 100019 filed 5-18-2000; operative 6-17-2000 (Register 2000, No. 20).

§ 100020. Optional Skill.

(a) In addition to the activities authorized by Section 100019 of this Chapter, public safety personnel may perform AED when authorized by a public safety AED service provider.

(1) Training for the AED shall consist of not less than four (4) hours and shall include the following topics and skills:

(A) Proper use, maintenance and periodic inspection of the AED.

(B) The importance of cardiopulmonary resuscitation (CPR), defibrillation, advanced life support (ALS), adequate airway care, and internal emergency response system, if applicable.

(C) Overview of the EMS system, the local EMS system's medical control policies, 9-1-1 access, and interaction with EMS personnel.

(D) Assessment of an unconscious patient, to include evaluation of airway, breathing, and circulation to determine cardiac arrest.

(E) Information relating to AED safety precautions to enable the individual to administer a shock without jeopardizing the safety of the patient or rescuers or other nearby persons.

(F) Recognition that an electrical shock has been delivered to the patient and that the defibrillator is no longer charged.

(G) Rapid, accurate assessment of the patient's post-shock status.

(H) The appropriate continuation of care following a successful defibrillation.

(b) In order to be authorized to utilize the defibrillator, an individual shall pass a written and skills examination with a pre-established standard, which tests the ability to assess and manage the specified conditions listed in subsection (a) of this section.

(c) A local EMS agency that approves public safety AED service providers shall:

(1) Approve and monitor training programs including refresher training within its jurisdiction to assure compliance with this Chapter.

(2) Approve the written and skills exam required for AED training course completion.

(3) Develop policies and procedures for approval of AED instructors by the local EMS agency medical director. To be authorized to instruct public safety personnel in the use of an AED, and AED instructor shall either:

(A) Complete an American Red Cross or American Heart Association recognized instructor course (or equivalent) including instruction and training in the use of an AED, or

(B) Be approved by the local EMS agency director and meet the following requirements:

1. Be AED accredited or able to show competency in the proper utilization of an AED, and

2. Be able to demonstrate competency in adult teaching methodologies.

(4) Establish policies and procedures for medical control pursuant to Section 1798 of the Health and Safety Code.

(5) Establish policies and procedures for the approval and designation of public safety AED service provider(s) which will include requirements that public safety AED service providers have policies and procedures, approved by the local EMS agency medical director, to

(A) provide orientation of AED accredited personnel to the AED,

(B) ensure continued competency of AED accredited personnel, and

(C) collect and report data, as required by the local EMS agency but no less than annually, to the local EMS agency, pursuant to Section 100021.

(6) Establish policies and procedures to collect, maintain and evaluate patient care records.

(7) Report annually to the EMS Authority on:

(A) The total number of patients, defibrillated, who were discharged from the hospital alive, and

(B) The data collected by public safety AED service providers pursuant to Section 100021 of this chapter.

NOTE: Authority cited: Section 1797.107, Health and Safety Code. Reference: Sections 1797.52, 1797.58, 1797.74, 1797.90, 1797.175, 1797.176, 1797.182, 1797.183, 1798, 1798.2, 1798.4, 1798.100, 1798.102 and 1798.104, Health and Safety Code; and Section 13518, Penal Code.

HISTORY
1. New section filed 11-30-87; operative 12-30-87 (Register 87, No. 49).
2. Renumbering of former section 100020 to section 100019 and renumbering and amendment of former section 100021 to section 100020 filed 5-18-2000; operative 6-17-2000 (Register 2000, No. 20).

§ 100021. Public Safety AED Service Provider.

A public safety AED service provider is an agency or organization that employs individuals as defined in Section 100015, and who obtain AEDs for the purpose of providing AED services to the general public.

(a) A public safety AED service provider shall be approved by the local EMS agency, or in the case of state or federal agencies, the EMS Authority, prior to beginning service. In order to receive and maintain AED service provider approval, a public safety AED service provider shall ensure compliance with the requirements of this Chapter.

(b) Public Safety AED service provider approval may be revoked or suspended for failure to maintain the requirements of this section.

(c) A public safety AED service provider applicant shall be approved if they meet and provide the following:

(1) Provide orientation of AED authorized personnel to the AED;

(2) Ensure maintenance of AED equipment;

(3) Ensure initial training and continued competency of AED authorized personnel;

(4) Collect and report to the local EMS agency where the defibrillation occurred, as required by the local EMS agency but no less than annually, data that includes, but is not limited to:

(A) The number of patients with sudden cardiac arrest receiving CPR prior to arrival of emergency medical care,

(B) The total number of patients on whom defibrillatory shocks were administered, when cardiac arrest was witnessed (seen or heard) and not witnessed; and

(C) The number of these persons who suffered a witnessed cardiac arrest whose initial monitored rhythm was ventricular tachycardia or ventricular fibrillation.

(5) Authorize personnel and maintain a listing of all public safety AED service provider authorized personnel and provide upon request to the local EMS agency or the EMS Authority.

(d) An approved public safety AED service provider and its authorized personnel shall be recognized statewide.

NOTE: Authority cited: Sections 1797.107, 1797.182 and 1797.183, Health and Safety Code. Reference: Sections 1797.182 and 1797.183, Health and Safety Code; and Section 13518, Penal Code.

HISTORY

1. New section filed 11–30–87; operative 12–30–87 (Register 87, No. 49). For prior history, see Register 87, No. 10.
2. Renumbering of former section 100021 to section 100020 and new section 100021 filed 5–18–2000; operative 6–17–2000 (Register 2000, No. 20).

§ 100022. Testing.

(a) The course of instruction shall include a written and skills examination which tests the ability to assess and manage all the conditions listed in Sections 100018 and 100019 of this Chapter.

(b) A passing standard shall be established by the training agency before administration of the examination.

NOTE: Authority cited: Section 1797.107, Health and Safety Code. Reference: Sections 1797.182 and 1797.183, Health and Safety Code; and Section 13518, Penal Code.

HISTORY

1. New section filed 11–30–87; operative 12–30–87 (Register 87, No. 49).
2. Amendment of subsection (a) filed 5–18–2000; operative 6–17–2000 (Register 2000, No. 20).

§ 100023. Training Instructor Requirements.

(a) Training in first aid and CPR for the personnel specified in Section 100016 of this Chapter shall be conducted by an instructor who is:

(1) Proficient in the skills taught; and

(2) qualified to teach by education and/or experience.

(b) Determination of the instructor's qualifications shall be the responsibility of the agency whose training program has been approved by the Authority pursuant to Section 100026 of this Chapter.

NOTE: Authority cited: Section 1797.107, Health and Safety Code. Reference: Sections 1797.182 and 1797.183, Health and Safety Code; and Section 13518, Penal Code.

HISTORY

1. New section filed 11–30–87; operative 12–30–87 (Register 87, No. 49). For prior history, see Register 87, No. 10.

§ 100024. Validation of Course Completion.

(a) Each trainee who successfully completes an approved course of instruction and successfully passes a proficiency test shall be given written verification to that effect by the institution, organization or agency which provides the instruction.

(b) Employing agencies which provide approved courses of instruction to their employees need not provide individual written verification but shall maintain a record of the names of trainees and the date(s) on which training courses have been completed for at least three (3) years.

(c) Such training records shall be made available for inspection by the local EMS agency upon request.

NOTE: Authority cited: Section 1797.107, Health and Safety Code. Reference: Sections 1797.182 and 1797.183, Health and Safety Code; and Section 13518, Penal Code.

HISTORY

1. New section filed 11–30–87; operative 12–30–87 (Register 87, No. 49).

§ 100025. Retraining Requirements.

(a) The retraining requirements of this Chapter shall be satisfied by successful completion of either:

(1) An approved retraining course which includes a review of the topics and demonstration of skills prescribed in this Chapter and which consists of no less than twelve (12) hours; or

(2) A competency based written and skills pretest of the topics and skills prescribed in this Chapter with the following restrictions:

(A) That appropriate retraining be provided on those topics indicated necessary by the pretest, in addition to any new developments in first aid and CPR;

(B) A final test be provided covering those topics included in the retraining for those persons failing to pass the pretest; and

(C) The hours for the retraining may be reduced to those hours needed to cover the topics indicated necessary by the pretest.

(b) The entire retraining course or pretest may be offered yearly by the training agency, but in no event shall the retraining course or pretest be offered less than once every three (3) years.

NOTE: Authority cited: Section 1797.107, Health and Safety Code. Reference: Sections 1797.182 and 1797.183, Health and Safety Code; and Section 13518, Penal Code.

HISTORY

1. New section filed 11–30–87; operative 12–30–87 (Register 87, No. 49). For prior history, see Register 87, No. 10.

Article 4. Training Approval Options

§ 100026. Approved Courses.

The training requirements of this Chapter may be satisfied by successfully completing any one of the following course options as determined by the employing agency:

(a) A course in first aid, including CPR, developed and/or authorized by the Fire Service Training Program of the Office of the State Fire Marshal and approved by the EMS Authority; or

(b) A course in first aid, including CPR, authorized by the Commission on Peace Officer's Standards and Training (POST) and approved by the EMS Authority; or

(c) A course in first aid, including CPR, developed and authorized by the California Department of Parks and Recreation and approved by the EMS Authority; or

(d) A course in first aid, including CPR, developed and authorized by the California Department of Forestry and Fire Protection and approved by the EMS Authority; or

(e) A course in first aid, including CPR, developed and authorized by the Department of the California Highway Patrol and approved by the EMS Authority; or

(f) A course in first aid, including CPR, sponsored and/or approved by the American Red Cross; or

(g) A course in first aid sponsored and/or approved by the American Red Cross and a course in CPR sponsored and/or approved by the American Heart Association; or

(h) The U.S. Department of Transportation's first responder course which includes first aid practices and CPR approved by the local EMS agency; or

(i) A course in first aid and/or CPR equivalent to the standards of the American Red Cross and/or American Heart Association and approved by the local EMS agency; or

(j) An EMT–I course which has been approved pursuant to Chapter 2 of this division; or

(k) An EMT–II course which has been approved pursuant to Chapter 3 of this division; or

(*l*) An EMT–P course which has been approved pursuant to Chapter 4 of this division.

NOTE: Authority cited: Section 1797.107, Health and Safety Code. Reference: Sections 1797.182 and 1797.183, Health and Safety Code; and Section 13518, Penal Code.

HISTORY

1. New section filed 11–30–87; operative 12–30–87 (Register 87, No. 49).
2. Change without regulatory effect amending subsection (d), adding new subsection (e) and relettering subsections filed 3–31–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 14).

§ 100027. Course Approval Process.

For those courses requiring approval, the following shall be submitted to the approving authority when requesting approval:

(a) Name of the sponsoring institution, organization, or agency;

(b) course outline;

(c) final written examination with pre-established scoring standards; and

(d) skill proficiency testing criteria, with pre-established scoring standards.

NOTE: Authority cited: Section 1797.107, Health and Safety Code. Reference: Sections 1797.182 and 1797.183, Health and Safety Code; and Section 13518, Penal Code.

HISTORY

1. New section filed 11-30-87; operative 12-30-87 (Register 87, No. 49). For prior history, see Register 87, No. 10.

§ 100028. Program Review.

All course outlines, written tests, and proficiency testing criteria used in an approved program shall be subject to periodic review as determined by the approving authority.

NOTE: Authority cited: Section 1797.107, Health and Safety Code. Reference: Sections 1797.182 and 1797.183, Health and Safety Code; and Section 13518, Penal Code.

HISTORY

1. New section filed 11-30-87; operative 12-30-87 (Register 87, No. 49).

Chapter 1.8. Training Standards and Utilization for Use of the Automated External Defibrillator by Non-Licensed or Non-Certified Personnel

Article 1. Definitions

§ 100031. AED Service Provider.

"AED Service Provider" means any agency, business, organization or individual who purchases an AED for use in a medical emergency involving an unconscious, person who has no signs of circulation. This definition does not apply to individuals who have been prescribed an AED by a physician for use on a specifically identified individual.

NOTE: Authority cited: Sections 1797.107 and 1797.190, Health and Safety Code. Reference: Sections 1797.5, 1797.190 and 1797.196, Health and Safety Code; and Section 1714.21, Civil Code.

HISTORY

1. New section filed 12-6-90; operative 1-5-91 (Register 91, No. 3). For prior history, see Register 87, No. 10.
2. Amendment of chapter heading, renumbering of former section 100031 to section 100032 and new section 100031 filed 1-13-2003; operative 2-12-2003 (Register 2003, No. 3).

§ 100032. Authorized Individual.

"Authorized individual" means any person, not otherwise licensed or certified to use the automated external defibrillator, who has met the training standards of this chapter, and who has been issued a prescription for use of an automated external defibrillator on a patient not specifically identified at the time the physician's prescription is given.

NOTE: Authority cited: Sections 1797.107 and 1797.190, Health and Safety Code. Reference: Sections 1797.5, 1797.190 and 1797.196, Health and Safety Code; and Section 1714.21, Civil Code.

HISTORY

1. New section filed 12-6-90; operative 1-5-91 (Register 91, No. 3).
2. Renumbering of former section 100032 to section 100033 and renumbering of former section 100031 to section 100032, including amendment of section and NOTE, filed 1-13-2003; operative 2-12-2003 (Register 2003, No. 3).

§ 100033. Automated External Defibrillator.

"Automated external defibrillator" or "AED" means an external defibrillator that after user activation is capable of cardiac rhythm analysis and will charge and deliver a shock, either automatically or by user interaction, after electronically detecting and assessing ventricular fibrillation or rapid ventricular tachycardia.

NOTE: Authority cited: Sections 1797.107 and 1797.190, Health and Safety Code. Reference: Sections 1797.5, 1797.190 and 1797.196, Health and Safety Code; and Section 1714.21, Civil Code.

HISTORY

1. New section filed 12-6-90; operative 1-5-91 (Register 91, No. 3). For prior history, see Register 87, No. 10.
2. Renumbering of former section 100033 to section 100034 and renumbering of former section 100032 to section 100033, including amendment of section and NOTE, filed 1-13-2003; operative 2-12-2003 (Register 2003, No. 3).

§ 100034. Cardiopulmonary Resuscitation.

"Cardiopulmonary resuscitation" or "CPR" means a basic emergency procedure for life support, consisting of artificial respiration, manual external cardiac massage, and maneuvers for relief of foreign body airway obstruction.

NOTE: Authority cited: Sections 1797.107 and 1797.190, Health and Safety Code. Reference: Sections 1797.5, 1797.190 and 1797.196, Health and Safety Code; and Section 1714.21, Civil Code.

HISTORY

1. New section filed 12-6-90; operative 1-5-91 (Register 91, No. 3).
2. Renumbering of former section 100034 to section 100035 and renumbering of former section 100033 to section 100034, including amendment of section and NOTE, filed 1-13-2003; operative 2-12-2003 (Register 2003, No. 3).

§ 100035. Internal Emergency Response System.

"Internal Emergency Response System" means a plan of action which utilizes responders within a facility to activate the "9-1-1" emergency system, and which provides for the access, coordination, and management of immediate medical care to seriously ill or injured individuals.

NOTE: Authority cited: Sections 1797.107 and 1797.190, Health and Safety Code. Reference: Sections 1797.5, 1797.190 and 1797.196, Health and Safety Code; and Section 1714.21, Civil Code.

HISTORY

1. New section filed 12-6-90; operative 1-5-91 (Register 91, No. 3). For prior history, see Register 87, No. 10.
2. Renumbering of former section 100035 to section 100036 and renumbering of former section 100034 to section 100035, including amendment of section and NOTE, filed 1-13-2003; operative 2-12-2003 (Register 2003, No. 3).

§ 100036. Prescribing Physician.

"Prescribing physician" means a physician and surgeon, licensed in California, who issues a written order for the use of the automated external defibrillator to authorized individual(s),.

NOTE: Authority cited: Sections 1797.107 and 1797.190, Health and Safety Code. Reference: Sections 1797.5, 1797.190 and 1797.196, Health and Safety Code; and Section 1714.21, Civil Code.

HISTORY

1. New section filed 12-6-90; operative 1-5-91 (Register 91, No. 3).
2. Renumbering of former section 100036 to section 100037 and renumbering of former section 100035 to section 100036, including amendment of section and NOTE, filed 1-13-2003; operative 2-12-2003 (Register 2003, No. 3).

Article 2. General Training Provisions

§ 100037. Application and Scope.

(a) Any physician and surgeon licensed in California may authorize an individual to apply and operate an AED on an unconscious person who has no signs of circulation only if that authorized individual has been successfully trained according to the standards prescribed by this chapter.

(b) The training standards prescribed by this chapter shall not apply to licensed, certified or other prehospital emergency medical care personnel as defined by section 1797.189 of the Health and Safety Code.

NOTE: Authority cited: Sections 1797.107 and 1797.190, Health and Safety Code. Reference: Sections 1797.5, 1797.189, 1797.190 and 1797.196, Health and Safety Code; and Section 1714.21, Civil Code.

HISTORY

1. New section filed 12-6-90; operative 1-5-91 (Register 91, No. 3). For prior history, see Register 87, No. 10.
2. Repealer of former section 100037 and renumbering of former section 100036 to section 100037, including amendment of section and NOTE, filed 1-13-2003; operative 2-12-2003 (Register 2003, No. 3).

Article 3. AED Training Program Requirements

§ 100038. Required Hours and Topics.

(a) The AED training component shall comply with the American Heart Association or American Red Cross standards. The course shall consist of not less than four hours, which shall include the following topics and skills:

(1) basic CPR skills

(2) proper use, maintenance and periodic inspection of the AED;

(3) the importance of:

(A) CPR,

(B) defibrillation,

(C) advanced life support,

(D) adequate airway care, and

(E) internal emergency response system, if applicable;

(4) overview of the local EMS system, including 9–1–1 access, and interaction with EMS personnel;

(5) assessment of an unconscious patient, to include evaluation of airway, breathing and circulation, to determine if cardiac arrest has occurred and the appropriateness of applying and activating an AED;

(6) information relating to defibrillator safety precautions to enable the individual to administer shock without jeopardizing the safety of the patient or the authorized individual or other nearby persons to include, but not be limited to;

(A) age and weight restrictions for use of the AED,

(B) presence of water or liquid on or around the victim,

(C) presence of transdermal medications, and

(D) implantable pacemakers or automatic implantable cardioverter–defibrillators;

(7) recognition that an electrical shock has been delivered to the patient and that the defibrillator is no longer charged;

(8) rapid, accurate assessment of the patient's post–shock status to determine if further activation of the AED is necessary; and,

(9) authorized individual's responsibility for continuation of care, such as the repeated shocks if necessary, and/or accompaniment to the hospital, if indicated, or until the arrival of more medically qualified personnel.

(b) The required hours for an AED training program can be reduced by no more than two hours for students who can show they have been certified in a basic CPR course in the past year and demonstrate to a qualified CPR instructor that they are proficient in the current techniques of CPR.

NOTE: Authority cited: Sections 1797.107 and 1797.190, Health and Safety Code. Reference: Sections 1797.5, 1797.190 and 1797.196, Health and Safety Code; and Section 1714.21, Civil Code.

HISTORY

1. New section filed 12–6–90; operative 1–5–91 (Register 91, No. 3).
2. Amendment of article heading and amendment of section and NOTE filed 1–13–2003; operative 2–12–2003 (Register 2003, No. 3).

§ 100039. Medical Director Requirements.

Any AED training course for non–licensed or non–certified personnel shall have a physician medical director who:

(a) Meets the qualifications of a prescribing physician.

(b) Shall approve a process to ensure instructors are properly qualified to the AED instructor standards established by the American Heart Association or the American Red Cross and ensure that instructors are trained to the course content.

(c) Shall ensure that all courses meet the requirements of this chapter.

(d) May also serve as the "prescribing physician."

NOTE: Authority cited: Sections 1797.107 and 1797.190, Health and Safety Code. Reference: Sections 1797.5, 1797.190 and 1797.196, Health and Safety Code; and Section 1714.21, Civil Code.

HISTORY

1. New section filed 12–6–90; operative 1–5–91 (Register 91, No. 3). For prior history, see Register 87, No. 10.
2. Repealer of article 4 heading and repealer and new section filed 1–13–2003; operative 2–12–2003 (Register 2003, No. 3).

§ 100040. Testing.

In order for an individual to be authorized to use the AED, the individual shall pass a written and skills examination, which tests the ability to assess and manage the specified conditions prescribed in section 100038.

NOTE: Authority cited: Sections 1797.107 and 1797.190, Health and Safety Code. Reference: Sections 1797.5, 1797.190 and 1797.196, Health and Safety Code; and Section 1714.21, Civil Code.

HISTORY

1. New section filed 12–6–90; operative 1–5–91 (Register 91, No. 3).
2. Amendment of section and NOTE filed 1–13–2003; operative 2–12–2003 (Register 2003, No. 3).

§ 100041. Written Validation.

The prescribing physician shall issue to the authorized individual a written validation or other documented proof of the authorized individual's ability to use an AED. The requirements for a "Written Validation" and "Prescription for Use" can both be satisfied by the issuance of a written certification card from an AED training program. The prescribing physician's signature shall be on file with the AED training program authorizing the issuance of the written certification card upon successful completion of the required training.

NOTE: Authority cited: Sections 1797.107 and 1797.190, Health and Safety Code. Reference: Sections 1797.5, 1797.190 and 1797.196, Health and Safety Code; and Section 1714.21, Civil Code.

HISTORY

1. New section filed 12–6–90; operative 1–5–91 (Register 91, No. 3). For prior history, see Register 87, No. 10.
2. Amendment of section and NOTE filed 1–13–2003; operative 2–12–2003 (Register 2003, No. 3).

Article 4. Operational AED Service Provider/Vendor Requirements

§ 100042. Operational Requirements.

(a) An AED Service Provider shall ensure their internal AED programs include all of the following:

(1) Development of an Internal Emergency Response System which complies with the regulations contained in this Chapter.

(2) Notification of the local EMS agency of the existence, location and type of AED at the time it is acquired.

(3) That all applicable local EMS policies and procedures are followed.

(4) That expected AED users complete a training course in CPR and AED use that complies with requirements of this chapter and the standards of the American Heart Association or the American Red Cross.

(5) That the defibrillator is maintained and regularly tested according to the operation and maintenance guidelines set forth by the manufacturer, and according to any applicable rules and regulations set forth by the governmental authority under the federal Food and Drug Administration and any other applicable state and federal authority.

(6) That the defibrillator is checked for readiness after each use and at least once every 30 days if the AED has not been used in the previous 30 days. Records of these periodic checks shall be maintained.

(7) That a mechanism exists to ensure that any person, either an employee or agent of the AED service provider, or member of the general public who renders emergency care or treatment on a person in cardiac arrest by using the service provider's AED activates the emergency medical services system as soon as possible, and reports any use of the AED to the local EMS agency.

(8) That there is involvement of a California licensed physician and surgeon in developing an Internal Emergency Response System and to ensure compliance with these regulations and requirements for training, notification and maintenance.

(9) That a mechanism exist that will assure the continued competency of the authorized individuals in the AED Service Provider's employ to include periodic training and skills proficiency demonstrations.

NOTE: Authority cited: Sections 1797.107 and 1797.190, Health and Safety Code. Reference: Sections 1797.5, 1797.190 and 1797.196, Health and Safety Code; and Section 1714.21, Civil Code.

HISTORY

1. New article 4 (sections 100042–100043) and section filed 1–13–2003; operative 2–12–2003 (Register 2003, No. 3).

§ 100043. AED Vendor Requirements

Any AED vendor who sells an AED to an AED Service Provider shall notify the AED Service Provider, at the time of purchase, both orally and in writing of the AED Service Provider's responsibility to comply with the regulations contained in the Chapter.

NOTE: Authority cited: Sections 1797.107 and 1797.190, Health and Safety Code. Reference: Sections 1797.5, 1797.190 and 1797.196, Health and Safety Code; and Section 1714.21, Civil Code.

HISTORY

1. New section filed 1–13–2003; operative 2–12–2003 (Register 2003, No. 3). For prior history, see Register 87, No. 10.

Chapter 2. Emergency Medical Technician I

NOTE: Authority cited: Sections 1797.107, 1797.109 and 1797.170, Health and Safety Code. Reference: Sections 1797.109, 1797.170 and 1797.208, Health and Safety Code.

HISTORY

1. New Division 9 (Chapter 2, Articles 1–6, Sections 100005–100055, not consecutive) filed 9–1–82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 36).
2. Editorial renumbering of Division 9 to Sections 100000–100055, not consecutive (Register 82, No. 39).
3. Editorial consolidation of HISTORY NOTES to reflect renumbering and amendment of Sections 100005–100027, not consecutive, to Sections 100057–100070, not consecutive, filed 2–6–87; operative 3–8–87 (Register 87, No. 52). For prior history of Sections 100005–100027, not consecutive, see Register 87, No. 10).
4. Editorial consolidation of HISTORY NOTES to reflect renumbering and amendment of Sections 100029–100041, not consecutive, to Sections 100071–100079, not consecutive filed 2–6–87; effective thirtieth day thereafter (Register 91, No. 3). For prior history, see Register 87, No. 10.
5. Editorial consolidation of HISTORY NOTES to reflect renumbering and amendment of Sections 100043–100055, not consecutive, to Sections 100080–100085, not consecutive filed 2–6–87; effective thirtieth day thereafter (Register 2003, No. 3). For prior history, see Register 87, No. 10.

Article 1. Definitions

§ 100056. Automated External Defibrillator or AED.

"Automated external defibrillator or AED" means an external defibrillator capable of cardiac rhythm analysis that will charge and deliver a shock, either automatically or by user interaction, after electronically detecting and assessing ventricular fibrillation or rapid ventricular tachycardia.

NOTE: Authority cited: Sections 1797.107 and 1797.170, Health and Safety Code. Reference: Sections 1797.52, 1797.107 and 1797.170, Health and Safety Code.

HISTORY

1. New section filed 7–21–88; operative 7–21–88 (Register 88, No. 31).
2. Amendment of section heading and text filed 6–13–94; operative 7–13–94 (Register 94, No. 24).
3. Amendment of section heading and section filed 1–11–2000; operative 2–10–2000 (Register 2000, No. 2).

§ 100056.1. EMT AED Service Provider.

An AED service provider means an agency or organization which is responsible for, and is approved to operate, an AED.

NOTE: Authority cited: Sections 1797.107 and 1797.170, Health and Safety Code. Reference: Sections 1797.52, 1797.107 and 1797.170, Health and Safety Code.

HISTORY

1. New section filed 7–21–88; operative 7–21–88 (Register 88, No. 31).
2. Amendment filed 6–13–94; operative 7–13–94 (Register 94, No. 24).
3. Renumbering of former section 100056.1 to section 100056.2 and new section 100056.1 filed 1–11–2000; operative 2–10–2000 (Register 2000, No. 2).

§ 100056.2. Manual Defibrillator.

"Manual Defibrillator" means a monitor/defibrillator that has no capability or limited capability for rhythm analysis and will charge and deliver a shock only at the command of the operator.

NOTE: Authority cited: Sections 1797.107 and 1797.170. Health and Safety Code. Reference: Sections 1797.52, 1797.107 and 1797.170, Health and Safety Code.

HISTORY

1. Renumbering of former section 100056.1 to section 100056.2 filed 1–11–2000; operative 2–10–2000 (Register 2000, No. 2). For prior history, see Register 94, No. 24.

§ 100057. EMT–I Approving Authority.

"EMT–I approving authority" means an agency or person authorized by this Chapter to approve an Emergency Medical Technician I training program, as follows:

(a) The EMT–I approving authority for an Emergency Medical Technician I (EMT–I) training program conducted by a qualified statewide public safety agency shall be the director of the Emergency Medical Services Authority (EMS Authority).

(b) The EMT–I approving authority for any other Emergency Medical Technician I (EMT–I) training programs not included in subsection (a) shall be the local EMS agency within that jurisdiction.

NOTE: Authority cited: Sections 1797.107, 1797.109 and 1797.170, Health and Safety Code. Reference: Sections 1797.109, 1797.170 and 1797.208, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100005 to section 100057 filed 2–6–87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 82, Nos. 39 and 36.
2. Amendment filed 6–13–94; operative 7–13–94 (Register 94, No. 24).

§ 100058. EMT–I Certifying Authority.

"EMT–I certifying authority" means an agency or person authorized to certify and recertify, as an Emergency Medical Technician I, an individual who has complied with the requirements of this Chapter, as follows:

(a) The program director of an approved EMT–I training program offered by a public safety agency may certify public safety personnel who comply with the requirements of this Chapter.

(b) The program director of an approved EMT–I training program offered by a public safety agency may recertify public safety personnel who successfully complete either an approved EMT–I refresher course or continuing education units that comply with the requirements of this Chapter.

(c) The medical director of the local EMS agency shall certify and recertify all other applicants for EMT–I certification within their jurisdiction who have complied with the requirements of this Chapter.

NOTE: Authority cited: Sections 1797.107, 1797.109 and 1797.170, Health and Safety Code. Reference: Sections 1797.109, 1797.170, 1797.210 and 1797.216, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100007 to section 100058 filed 2–6–87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 82, Nos. 39 and 36.
2. Amendment filed 6–13–94; operative 7–13–94 (Register 94, No. 24).
3. Amendment of subsection (a), new subsection (b) and subsection relettering filed 3–7–2006; operative 4–6–2006 (Register 2006, No. 10).

§ 100059. Certifying Examination.

Prior to January 1, 2006, "certifying examination," as used in this Chapter, means an examination either developed or approved by the EMS Authority or the EMT–I certifying authority and administered or approved by the EMT–I certifying authority, given to an individual applying for certification as an EMT–I. The examination shall include both written and skills testing portions designed to determine an individual's competence for certification as an EMT–I. The EMT–I certifying authority may designate the final written examination and skills test of the EMT–I course as the measure of competency of certification. After January 1, 2006, "certifying examination" as used in this Chapter, means the written examination and skills examination approved by the EMS Authority to test an individual applying for certification as an EMT–I.

NOTE: Authority cited: Sections 1797.107, 1797.109, 1797.170 and 1797.175, Health and Safety Code. Reference: Sections 1797.63, 1797.170, 1797.175, 1797.210 and 1797.216, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100009 to section 100059 filed 2–6–87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 82, Nos. 39 and 36.
2. Amendment filed 6–13–94; operative 7–13–94 (Register 94, No. 24).
3. Amendment of section and NOTE filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100059.1. Optional Skills Medical Director.

"Optional skills medical director" means a physician and surgeon licensed in California who is certified by or prepared for certification by either the American Board of Emergency Medicine or the Advisory Board for Osteopathic Specialties and is appointed by the local EMS medical director to be responsible for any of the EMT–I Optional Skills that are listed in Section 100064 of this Chapter including medical control. Waiver of the board–certified requirement may be granted by the local EMS medical director if such physicians are not available for approval.

NOTE: Authority cited: Sections 1797.107 and 1797.170, Health and Safety Code. Reference: Sections 1797.52, 1797.90, 1797.107, 1797.170, 1797.176 and 1797.202, Health and Safety Code.

HISTORY

1. New section filed 7–21–88; operative 7–21–88 (Register 88, No. 31).
2. Amendment of section heading and text filed 6–13–94; operative 7–13–94 (Register 94, No. 24).
3. Amendment filed 11–25–97 as an emergency; operative 11–25–97 (Register 97, No. 48). A Certificate of Compliance must be transmitted to OAL by 3–25–97 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 11–25–97 order transmitted to OAL 3–16–98 and filed 4–24–98 (Register 98, No. 17).
5. Renumbering of former section 100056.1 to section 100056.2 filed 1–11–2000; operative 2–10–2000 (Register 2000, No. 2). For prior history, see Register 94, No. 24.
6. Amendment filed 4–16–2001 as an emergency; operative 4–16–2001 (Register 2001, No. 16). A Certificate of Compliance must be transmitted to OAL by 8–14–2001 or emergency language will be repealed by operation of law on the following day.
7. Reinstatement of section as it existed prior to 4–16–2001 emergency amendment by operation of Government Code section 11346.1(f) (Register 2003, No. 10).
8. Amendment filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100059.2. Rural Area.

NOTE: Authority cited: Sections 1797.107 and 1797.170, Health and Safety Code. Reference: Sections 1797.74, 1797.78, 1797.94, 1797.102, 1797.107, 1797.170 and 1797.176, Health and Safety Code.

HISTORY

1. New section filed 4–16–2001 as an emergency; operative 4–16–2001 (Register 2001, No. 16). A Certificate of Compliance must be transmitted to OAL by 8–14–2001 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2003, No. 10).

§ 100060. Emergency Medical Technician I (EMT–I).

"Emergency Medical Technician I," "EMT–I," or EMT–Basic means a person who has successfully completed an EMT–I course which meets the requirements of this Chapter, has passed all required tests, and who has been certified by the EMT–I certifying authority.

NOTE: Authority cited: Sections 1797.107, 1797.109 and 1797.170, Health and Safety Code. Reference: Sections 1797.80 and 1797.170, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100011 to section 100060 filed 2–6–87; effective thirtieth day thereafter (Register 87, No. 10).
2. Amendment of section heading and text filed 6–13–94; operative 7–13–94 (Register 94, No. 24).
3. Amendment filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100061. Local Accreditation.

"Local accreditation" or "accreditation" or "accredited to practice" as used in this Chapter, means authorization by the local EMS agency to practice the optional skill(s) specified in Section 100064 within that jurisdiction. Such authorization assures that the EMT–I has been oriented to the local EMS system and trained in the optional skill(s) necessary to achieve the treatment standard of the jurisdiction.

NOTE: Authority cited: Sections 1797.107 and 1797.170, Health and Safety Code. Reference: Sections 1797.170, 1797.176, 1797.177, 1797.178, 1797.200, 1797.204, 1797.206, 1797.210 and 1797.214, Health and Safety Code.

HISTORY

1. New section filed 2–6–87; effective thirtieth day thereafter (Register 87, No. 10).
2. Amendment filed 6–13–94; operative 7–13–94 (Register 94, No. 24).

§ 100061.1. Emergency Medical Services Quality Improvement Program.

"Emergency Medical Services Quality Improvement Program" or "EMSQIP" means methods of evaluation that are composed of structure, process, and outcome evaluations which focus on improvement efforts to identify root causes of problems, intervene to reduce or eliminate these causes, and take steps to correct the process, and recognize excellence in performance and delivery of care, pursuant to the provisions of Chapter 12 of this Division. This is a model program which will develop over time and is to be tailored to the individual organization's quality improvement needs and is to be based on available resources for the EMS QI program.

NOTE: Authority cited: Sections 1797.103, 1797.107 and 1797.170, Health and Safety Code. Reference: Sections 1797.204 and 1797.220, Health and Safety Code.

HISTORY

1. New section filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

Article 2. General Provisions

§ 100062. Application of Chapter to Operation of Ambulances.

(a) Except as provided herein, the attendant on an ambulance operated in emergency service, or the driver if there is no attendant, shall possess a valid and current California EMT–I certificate. This requirement shall not apply during officially declared states of emergency and under conditions specified in Health and Safety Code, Section 1797.160.

(b) The requirements for EMT–I certification of ambulance attendants shall not apply, unless the individual chooses to be certified, to the following:

(1) Physicians currently licensed in California.

(2) Registered nurses currently licensed in California.

(3) Physicians' assistants currently licensed in California.

(4) Emergency Medical Technician Paramedics (EMT–Ps) currently licensed in California.

(5) Emergency Medical Technician IIs (EMT–IIs) currently certified in California.

(c) EMT–Is who are not currently certified in California may temporarily perform their scope of practice in California, when approved by the medical director of the local EMS agency, in order to provide emergency medical services in response to a request, if all the following conditions are met:

(1) The EMTs are registered by the National Registry of Emergency Medical Technicians or licensed or certified in another state or under the jurisdiction of a branch of the Armed Forces including the Coast Guard of the United States, National Park Service, United States Department of the Interior—Bureau of Land Management, or the United States Forest Service; and

(2) The EMTs restrict their scope of practice to that for which they are licensed or certified.

NOTE: Authority cited: Sections 1797.107, 1797.109 and 1797.170, Health and Safety Code. Reference: Sections 1797.160 and 1797.170, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100013 to section 100062 filed 2–6–87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 82, Nos. 39 and 36.
2. Amendment filed 6–13–94; operative 7–13–94 (Register 94, No. 24).

3. Amendment of subsection (b)(4) filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100063. Scope of Practice of Emergency Medical Technician–I (EMT–I).

(a) During training, while at the scene of an emergency, during transport of the sick or injured, or during interfacility transfer, a supervised EMT–I student or certified EMT–I is authorized to do any of the following:

(1) Evaluate the ill and injured.

(2) Render basic life support, rescue and emergency medical care to patients.

(3) Obtain diagnostic signs to include but not be limited to the assessment of temperature, blood pressure, pulse and respiration rates, level of consciousness, and pupil status.

(4) Perform cardiopulmonary resuscitation, including the use of mechanical adjuncts to basic cardiopulmonary resuscitation.

(5) Use the following adjunctive airway breathing aids:

(A) oropharyngeal airway;

(B) nasopharyngeal airway;

(C) suction devices;

(D) basic oxygen delivery devices; and

(E) manual and mechanical ventilating devices designed for prehospital use.

(6) Use various types of stretchers and body immobilization devices.

(7) Provide initial prehospital emergency care of trauma.

(8) Administer oral glucose or sugar solutions.

(9) Extricate entrapped persons.

(10) Perform field triage.

(11) Transport patients.

(12) Set up for ALS procedures, under the direction of an EMT–II or PARAMEDIC.

(13) Perform automated external defibrillation when authorized by an EMT AED service provider.

(14) Assist patients with the administration of physician prescribed devices, including but not limited to, patient operated medication pumps, sublingual nitrogylcerin, and self–administered emergency medications, including epinephrine devices.

(b) In addition to the activities authorized by subdivision (a) of this section, the medical director of the local EMS agency may also establish policies and procedures to allow a certified EMT–I or a supervised EMT–I student in the prehospital setting and/or during interfacility transport to:

(1) Monitor intravenous lines delivering glucose solutions or isotonic balanced salt solutions including Ringer's lactate for volume replacement;

(2) Monitor, maintain, and adjust if necessary in order to maintain, a preset rate of flow and turn off the flow of intravenous fluid; and

(3) Transfer a patient, who is deemed appropriate for transfer by the transferring physician, and who has nasogastric (NG) tubes, gastrostomy tubes, heparin locks, foley catheters, tracheostomy tubes and/or indwelling vascular access lines, excluding arterial lines;

(4) Monitor preexisting vascular access devices and intravenous lines delivering fluids with additional medications pre–approved by the Director of the EMS Authority. Approval of such medications shall be obtained pursuant to the following procedures:

(A) The medical director of the local EMS agency shall submit a written request, Form #EMSA–0391, revised January 1994, and obtain approval from the director of the EMS Authority, who shall consult with a committee of local EMS medical directors named by the Emergency Medical Directors Association of California, for any additional medications that in his/her professional judgement should be approved for implementation of Section 100063(b)(4).

(B) The EMS Authority shall, within fourteen days of receiving the request, notify the medical director of the local EMS agency submitting the request that the request has been received, and shall specify what information, if any, is missing.

(C) The director of the EMS Authority shall render the decision to approve or disapprove the additional medications within ninety days of receipt of the completed request.

(c) The scope of practice of an EMT–I shall not exceed those activities authorized in this section, Section 100064, and Section 100064.1.

NOTE: Authority cited: Sections 1797.107, 1797.109 and 1797.170, Health and Safety Code. Reference: Sections 1797.170 and 1797.221, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100015 to section 100063 filed 2–6–87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 82, Nos. 39 and 36.
2. Amendment of section and NOTE filed 6–13–94; operative 7–13–94 (Register 94, No. 24).
3. New subsection (a)(14) filed 1–11–2000; operative 2–10–2000 (Register 2000, No. 2).
4. Amendment filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100063.1. EMT AED Service Provider.

An EMT AED service provider is an agency or organization that employs individuals as defined in Section 100060, and who obtain AEDs for the purpose of providing AED services to the general public.

(a) An EMT AED service provider shall be approved by the local EMS agency, or in the case of state or federal agencies, the EMS Authority, prior to beginning service. The EMS Authority shall notify local EMS agencies of state or federal agencies approved as EMT AED service providers. In order to receive and maintain EMT AED service provider approval, an EMT AED service provider shall comply with the requirements of this section.

(b) An EMT AED service provider approval may be revoked or suspended for failure to maintain the requirements of this section.

(c) An EMT AED service provider applicant shall be approved if they meet and provide the following:

(1) Provide orientation of AED authorized personnel to the AED;

(2) Ensure maintenance of AED equipment;

(3) Prior to January 1, 2002, ensure initial training and, thereafter, continued competency of AED authorized personnel;

(4) Collect and report to the local EMS agency where the defibrillation occurred, as required by the local EMS agency but no less than annually, data that includes, but is not limited to:

(A) The number of patients with sudden cardiac arrest receiving CPR prior to arrival of emergency medical care.

(B) The total number of patients on whom defibrillatory shocks were administered, witnessed (seen or heard) and not witnessed; and

(C) The number of these persons who suffered a witnessed cardiac arrest whose initial monitored rhythm was ventricular tachycardia or ventricular fibrillation.

(5) Authorize personnel and maintain a current listing of all EMT AED service provider authorized personnel and provide listing upon request to the local EMS agency or the EMS Authority.

(d) An approved EMT AED service provider and their authorized personnel shall be recognized statewide.

(e) Authorized personnel means EMT–I personnel trained to operate an AED and authorized by an approved EMT AED service provider.

NOTE: Authority cited: Sections 1797.107 and 1797.170, Health and Safety Code. Reference: Sections 1797.170, 1797.178, 1797.200, 1797.202, 1797.204, 1797.220, 1798 and 1798.2, Health and Safety Code.

HISTORY

1. New section filed 1–11–2000; operative 2–10–2000 (Register 2000, No. 2).

§ 100064. Optional Skills.

(a) In addition to the activities authorized by Section 100063 of this Chapter, a local EMS agency may establish policies and procedures for local accreditation of an EMT–I student or certified EMT–I to perform any or all of the following optional skills specified in this section. Subsections (b), (c), (f), (g), and (h) of this section will sunset when the EMT–II Regulations, Chapter 3 of this Division, is amended to specify the training and certification requirements for a modular EMT–II scope of practice.

(b) Defibrillation on an unconscious, pulseless patient who is apneic or has agonal respirations with a manual defibrillator when used under the direct supervision of an EMT–II, Paramedic, R.N., or M.D.

(1) Training in the use of a manual defibrillator shall consist of not less than ten hours to result in the EMT–I being competent in the recognition of ventricular fibrillation and use of the device. Included in the above training hours shall be the following topics and skills:

(A) Anatomy and physiology of the heart;

(B) Basic electrophysiology;

(C) Cardiac monitoring;

(D) Rhythm recognition of ventricular fibrillation, ventricular tachycardia, pulseless electrical activity, and cardiac standstill (asystole);

(E) Defibrillator operation and defibrillation;

(F) Medical control; and

(G) Post conversion care and monitoring according to local policies and procedures.

(2) At the completion of initial training, a student shall complete a competency–based written and skills examination for manual defibrillation which shall include the use of the manual defibrillator and cardiac monitoring, cardiac rhythm recognition and manual defibrillation.

(3) A local EMS agency shall establish policies and procedures for skills competency demonstration that requires the accredited EMT–I to demonstrate skills competency every six months after initial accreditation.

(c) Use of esophageal–tracheal airway device.

(1) Training in the use of an esophageal–tracheal airway device shall consist of not less than five (5) hours to result in the EMT–I being competent in the use of the device and airway control. Included in the above training hours shall be the following topics and skills:

(A) Anatomy and physiology of the respiratory system.

(B) Assessment of the respiratory system.

(C) Review of basic airway management techniques, which includes manual and mechanical.

(D) The role of the esophageal–tracheal airway device in the sequence of airway control.

(E) Indications and contraindications of the esophageal–tracheal airway device.

(F) The role of pre–oxygenation in preparation for the esophageal–tracheal airway device.

(G) Esophageal–tracheal airway device insertion and assessment of placement.

(H) Methods for prevention of basic skills deterioration.

(I) Alternatives to the esophageal–tracheal airway device.

(2) At the completion of initial training a student shall complete a competency–based written and skills examination for airway management which shall include the use of basic airway equipment and techniques and use of the esophageal–tracheal airway device.

(3) A local EMS agency shall establish policies and procedures for skills competency demonstration that requires the accredited EMT–I to demonstrate skills competency every six months thereafter after initial accreditation.

(d) Administration of naloxone for suspected narcotic overdose.

(1) Training in the administration of naloxone shall consist of no less than two hours to result in the EMT–I being competent in the administration of naloxone and managing a patient of a suspected narcotic overdose. Included in the training hours listed above shall be the following topics and skills:

(A) Common causative agents

(B) Assessment findings

(C) Management to include but not be limited to:

(D) Need for appropriate personal protective equipment and scene safety awareness

(E) Profile of Naloxone to include, but not be limited to:

1. Indications
2. Contraindications
3. Side/adverse effects
4. Routes of administration
5. Dosages

(F) Mechanisms of drug action

(G) Calculating drug dosages

(H) Medical asepsis

(I) Disposal of contaminated items and sharps

(2) At the completion of this training, the student shall complete a competency based written and skills examination for administration of naloxone which shall include:

(A) Assessment of when to administer naloxone,

(B) Managing a patient before and after administering naloxone,

(C) Using universal precautions and body substance isolation procedures during medication administration,

(D) Demonstrating aseptic technique during medication administration,

(E) Demonstrate preparation and administration of parenteral medications by a route other than intravenous.

(F) Proper disposal of contaminated items and sharps.

(3) A local EMS agency shall establish policies and procedures for skills competency demonstration that requires the accredited EMT–I to demonstrate skills competency every six months after initial accreditation.

(e) Administration of epinephrine by auto–injector or preloaded syringe for suspected anaphylaxis and/or severe asthma.

(1) Training in the administration of epinephrine shall consist of no less than two hours to result in the EMT–I being competent in the administration of epinephrine and managing a patient of a suspected anaphylactic reaction and/or experiencing severe asthma symptoms. Included in the training hours listed above shall be the following topics and skills:

(A) Common causative agents

(B) Assessment findings

(C) Management to include but not be limited to:

(D) Need for appropriate personal protective equipment and scene safety awareness

(E) Profile of epinephrine to include, but not be limited to:

1. Indications
2. Contraindications
3. Side/adverse effects
4. Administration by auto–injector or preloaded syringe
5. Dosages
6. Mechanisms of drug action

(F) Medical asepsis

(H) Disposal of contaminated items and sharps

(2) At the completion of this training, the student shall complete a competency based written and skills examination for administration of epinephrine which shall include:

(A) Assessment of when to administer epinephrine,

(B) Managing a patient before and after administering epinephrine,

(C) Using universal precautions and body substance isolation procedures during medication administration,

(D) Demonstrating aseptic technique during medication administration,

(E) Demonstrate preparation and administration of epinephrine by auto–injector or preloaded syringe

(F) Proper disposal of contaminated items and sharps.

(3) A local EMS agency shall establish policies and procedures for skills competency demonstration that requires the accredited EMT–I to demonstrate skills competency every six months after initial accreditation.

(f) Perform blood glucose determination and administer the medications listed in this subsection.

(1) Using prepackaged products when available, the following medications may be administered:

(A) Aspirin

(B) Bronchodilators

(C) Epinephrine, sub–cutaneous

(D) Naloxone
(E) Nitroglycerine
(F) Glucagon
(G) Activated Charcoal

(2) This module shall include of all of the medications and skills listed above and shall consist of no less than 35 hours of didactic and skills laboratory, and no less than 32 hours of clinical training and field internship which shall result in no fewer than ten advanced life support contacts during clinical training and field internship.

(A) Profile of medications listed in sub–sections (A–G) to include, but not be limited to:

1. Indications
2. Contraindications
3. Side/adverse effects
4. Routes of administration
5. Dosages
6. Mechanisms of drug actions
7. Calculating drug dosages
8. Medical asepsis
9. Disposal of contaminated items and sharps
10. Medication administration, excluding intravenous route.
11. Patient Assessment and physiology related to the application of this module.

(3) At the completion of this training, the student shall complete a competency based written and skills examination for the administration of the medications listed in this subsection which shall include:

(A) Assessment of when to administer these medications,

(B) Managing a patient before and after administering these medications,

(C) Using universal precautions and body substance isolation procedures during medication administration,

(D) Demonstrating aseptic technique during medication administration,

(E) Demonstrate the preparation and administration of medications by the inhalation route, subcutaneous route, sublingual route, oral route and intramuscular route,

(F) Demonstrate blood glucose determination, and

(G) Proper disposal of contaminated items and sharps.

(4) A local EMS agency shall establish policies and procedures for skills competency demonstration that requires the accredited EMT–I to demonstrate skills competency every six months after initial accreditation.

(g) Administer the medications listed in this subsection.

(1) Using prepackaged products when available, the following medications may be administered:

(A) Atropine
(B) Pralidoxime Chloride

(2) This training shall consist of no less than 2 hours of didactic and skills laboratory training. In addition, basic weapons of mass destruction training is recommended. Training in the profile of medications listed in subsections (A and B) shall include, but not be limited to:

(A) Indications
(B) Contraindications
(C) Side/adverse effects
(D) Routes of administration
(E) Dosages
(F) Mechanisms of drug action
(G) Disposal of contaminated items and sharps
(H) Medication administration.

(3) At the completion of this training, the student shall complete a competency based written and skills examination for the administration of medications listed in this subsection which shall include:

(A) Assessment of when to administer these medications,

(B) Managing a patient before and after administering these medications,

(C) Using universal precautions and body substance isolation procedures during medication administration,

(D) Demonstrating aseptic technique during medication administration,

(E) Demonstrate the preparation and administration of medications by the intramuscular route.

(F) Proper disposal of contaminated items and sharps.

(4) A local EMS agency shall establish policies and procedures for skills competency demonstration that requires the accredited EMT–I to demonstrate skills competency every six months after initial accreditation.

(h) Establish intravenous access under the direct supervision of a paramedic currently licensed in California.

(1) Training in instituting IV catheters in peripheral veins and administering IV glucose solutions or isotonic balanced saline salt solutions shall consist of not less than four hours and shall be divided into:

(A) Four hours of didactic instruction and skills laboratories, and

(B) Hospital clinical training to include successfully establishing a minimum of ten IVs.

(2) Included in the above training hours shall be the following topics and skills:

(A) specific patent assessment,
(B) indications,
(C) contraindications,
(D) complications,
(E) equipment needed,
(F) asepsis,
(G) technique of establishing, securing, and monitoring IV,
(H) universal precautions, and
(I) body substance isolation.

(3) At the completion of initial training a student shall pass, by pre–established standards, a competency–based written and skills examination.

(4) A local EMS agency shall establish policies and procedures for skills competency demonstration that requires the accredited EMT–I to demonstrate skills competency every six months after initial accreditation.

(i) The medical director of the local EMS agency shall develop a plan for each optional skill allowed. The plan shall, at a minimum, include the following:

(1) A description of the need for the use of the optional skill.

(2) A description of the geographic area within which the optional skill will be utilized.

(3) A description of the data collection methodology which shall also include an evaluation of the effectiveness of the optional skill.

(4) The policies and procedures to be instituted by the local EMS agency regarding medical control and use of the optional skill.

(j) A local EMS agency medical director who accredits EMT–Is to perform an optional skill shall:

(1) Establish policies and procedures for the approval and designation of service provider(s).

(2) Approve and designate selected base hospital(s) as the local EMS agency deems necessary to provide direction and supervision of accredited EMT–Is in accordance with policies and procedures established by the local EMS agency.

(3) Establish policies and procedures to collect, maintain and evaluate patient care records.

(4) Establish a quality improvement program. Quality improvement means a method of evaluation of services provided, which includes defined standards, evaluation of methodology(ies) and utilization of evaluation results for continued system improvement. Such methods may include, but not be limited to, a written plan describing the program objectives, organization, scope and mechanisms for overseeing the effectiveness of the program.

(k) The local EMS medical director may approve an optional skill medical director to be responsible for accreditation and any or all of the following requirements.

(1) Approve and monitor training programs including refresher training within its jurisdiction.

(2) Establish policies and procedures for continued competency in the optional skill which will consist of organized field care audits, periodic training sessions and/or structured clinical experience that will be in addition to the requirements in Section 100081 of this Chapter.

(3) Require a documented demonstration of the optional skill proficiency at intervals determined by the medical director. In no case shall the interval exceed six months.

(A) Accreditation may be rescinded by the medical director who granted accreditation if, in his/her judgement, the individual fails to demonstrate competency in the optional skill.

(B) Accreditation may be temporarily suspended in accordance with the local EMS agency's policies and procedures, by the local EMS medical director, EMT–I optional skill medical director, or base hospital medical director.

(C) The local EMS agency medical director may review and sustain or overrule a decision to rescind or suspend accreditation made by the optional skill medical director or base hospital physician.

(D) The local EMS agency shall develop policies to provide for notice and appeal procedures for individual(s) whose accreditation has been suspended or rescinded.

(*l*) The optional skill medical director may delegate the specific field care audits, training, and demonstration of competency, if approved by the local EMS agency medical director, to a physician, registered nurse, physician assistant, Paramedic, or EMT–II, licensed or certified in California or a physician licensed in another state immediately adjacent to the local emergency medical services agency jurisdiction.

(m) An EMT–I accredited in an optional skill may assist in demonstration of competency and training of that skill.

(n) In order to be accredited to utilize an optional skill, an EMT–I shall demonstrate competency through passage, by preestablished standards, developed and/or approved by the local EMS agency, of a competency–based written and skills examination which tests the ability to assess and manage the specified condition.

NOTE: Authority cited: Sections 1797.107 and 1797.170, Health and Safety Code. Reference: Sections 1797.8, 1797.52, 1797.58, 1797.90, 1797.170, 1797.173, 1797.175, 1797.176, 1797.202, 1797.208, 1797.212, 1798, 1798.2, 1798.100, 1798.102 and 1798.104, Health and Safety Code.

HISTORY

1. New section filed 2–6–87; effective thirtieth day thereafter (Register 87, No. 10).
2. Amendment filed 7–21–88; operative 7–21–88 (Register 88, No. 31).
3. Amendment of section and NOTE filed 6–13–94; operative 7–13–94 (Register 94, No. 24).
4. Amendment of subsection (a), new subsections (a)(3)–(a)(3)(C), and amendment of subsections (d)(3) and (h) and NOTE filed 11–25–97 as an emergency; operative 11–25–97 (Register 97, No. 48). A Certificate of Compliance must be transmitted to OAL by 3–25–97 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–25–97 order, including additional amendment of subsections (a)(3)(C) and (d)(3), new subsection (g) and subsection relettering, transmitted to OAL 3–16–98 and filed 4–24–98 (Register 98, No. 17).
6. Amendment of section heading and section filed 1–11–2000; operative 2–10–2000 (Register 2000, No. 2).
7. Amendment of section and new form #EMSA–0391 (Rev. 1/94) filed 4–16–2001 as an emergency; operative 4–16–2001 (Register 2001, No. 16). A Certificate of Compliance must be transmitted to OAL by 8–14–2001 or emergency language will be repealed by operation of law on the following day.
8. Reinstatement of section as it existed prior to 4–16–2001 emergency amendment (including repealer of form EMSA–0391) by operation of Government Code section 11346.1(f) (Register 2003, No. 10).
9. Editorial correction restoring inadvertently deleted subsection (a)(3)(C) (Register 2004, No. 37).
10. Amendment of section and NOTE filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100064.1. EMT–I Trial Studies.

An EMT–I may perform any prehospital emergency medical care treatment procedure(s) or administer any medication(s) on a trial basis when approved by the medical director of the local EMS agency and the director of the EMS Authority. The medical director of the local EMS agency shall review the medical literature on the procedure or medication and determine in his/her professional judgement whether a trial study is needed.

(a) The medical director of the local EMS agency shall review a trial study plan which, at a minimum, shall include the following:

(1) A description of the procedure(s) or medication(s) proposed, the medical conditions for which they can be utilized, and the patient population that will benefit.

(2) A compendium of relevant studies and material from the medical literature.

(3) A description of the proposed study design, including the scope of study and method of evaluating the effectiveness of the procedure(s) or medication(s), and expected outcome.

(4) Recommended policies and procedures to be instituted by the local EMS agency regarding the use and medical control of the procedure(s) or medication(s) used in the study.

(5) A description of the training and competency testing required to implement the study. Training on subject matter shall be consistent with the related topic(s) and skill(s) specified in Section 100159, Chapter 4 (EMT–P regulations), Division 9, Title 22, California Code of Regulations.

(b) The medical director of the local EMS agency shall appoint a local medical advisory committee to assist with the evaluation and approval of trial studies. The membership of the committee shall be determined by the medical director of the local EMS agency, but shall include individuals with knowledge and experience in research and the effect of the proposed study on the EMS system.

(c) The medical director of the local EMS agency shall submit the proposed study and a copy of the proposed trial study plan at least forty–five (45) days prior to the proposed initiation of the study to the director of the EMS Authority for approval in accordance with the provisions of Section 1797.221 of the Health and Safety Code. The EMS Authority shall inform the Commission on EMS of studies being initiated.

(d) The EMS Authority shall notify the medical director of the local EMS agency submitting its request for approval of a trial study within fourteen (14) days of receiving the request that the request has been received.

(e) The Director of the EMS Authority shall render the decision to approve or disapprove the trial study within forty–five (45) days of receipt of all materials specified in subsections (a) and (b) of this section.

(f) Within eighteen (18) months of the initiation of the procedure(s) or medication(s), the medical director of the local EMS agency shall submit to the Commission on EMS a written report which includes at a minimum the progress of the study, number of patients studied, beneficial effects, adverse reactions or complications, appropriate statistical evaluation, and general conclusion.

(g) The Commission on EMS shall review the above report within two (2) meetings and advise the EMS Authority to do one of the following:

(1) Recommend termination of the study if there are adverse effects or if no benefit from the study is shown.

(2) Recommend continuation of the study for a maximum of eighteen (18) additional months if potential but inconclusive benefit is shown.

(3) Recommend the procedure or medication be added to the EMT–I scope of practice.

(h) If option (g)(2) is selected, the Commission on EMS may advise continuation of the study as structured or alteration of the study to increase the validity of the results.

(i) At the end of the additional eighteen (18) month period, a final report shall be submitted to the Commission on EMS with the same format as described in (f) above.

(j) The Commission on EMS shall review the final report and advise the EMS Authority to do one of the following:

(1) Recommend termination or further extension of the study.

(2) Accept the study recommendations.

(3) Recommend the procedure or medication be added to the EMT–I scope of practice.

(k) The EMS Authority may require a trial study(ies) to cease after thirty–six (36) months.

NOTE: Authority cited: Section 1797.107 and 1797.170, Health and Safety Code. Reference: Sections 1797.170 and 1797.221, Health and Safety Code.

HISTORY

1. New section filed 6–13–94; operative 7–13–94 (Register 94, No. 24).

Article 3. Program Requirements for EMT–I Training Programs

§ 100065. Approved Training Programs.

(a) The purpose of an EMT–I training program shall be to prepare individuals to render prehospital basic life support at the scene of an emergency, during transport of the sick and injured, or during interfacility transfer within an organized EMS system.

(b) EMT–I training may be offered only by approved training programs. Eligibility for program approval shall be limited to:

(1) Accredited universities and colleges including junior and community colleges, school districts, and private post–secondary schools as approved by the State of California, Department of Consumer Affairs, Bureau of Private Postsecondary and Vocational Education.

(2) Medical training units of a branch of the Armed Forces including the Coast Guard of the United States.

(3) Licensed general acute care hospitals which meet the following criteria:

(A) Hold a special permit to operate a Basic or Comprehensive Emergency Medical Service pursuant to the provisions of Division 5; and

(B) provide continuing education to other health care professionals.

(4) Agencies of government including public safety agencies.

(5) Local EMS agencies.

NOTE: Authority cited: Sections 1797.107, 1797.109, 1797.170 and 1797.173, Health and Safety Code. Reference: Sections 1797.170, 1797.173, 1797.208 and 1797.213 Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100017 to section 100065 filed 2–6–87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 82, Nos. 39 and 36.
2. Amendment filed 6–13–94; operative 7–13–94 (Register 94, No. 24).
3. Amendment of subsection (b)(1) filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100066. Procedure for Program Approval.

(a) Eligible training programs may submit a written request for EMT–I program approval to an EMT–I approving authority.

(b) The EMT–I approving authority shall review and approve the following prior to approving an EMT–I training program:

(1) A statement verifying usage of the United States Department of Transportation's EMT–Basic National Standard Curriculum, DOT HS 808 149, August 1994, which includes learning objectives, skills protocols, and treatment guidelines.

(2) A statement verifying CPR training equivalent to the 2005 American Heart Association's Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care at the Healthcare Provider level is a prerequisite for admission to an EMT–I basic course.

(3) Samples of written and skills examinations used for periodic testing.

(4) A final skills competency examination.

(5) A final written examination.

(6) The name and qualifications of the program director, program clinical coordinator, and principal instructor(s).

(7) Provisions for clinical experience, as defined in Section 100068 of this Chapter.

(8) Provisions for course completion by challenge, including a challenge examination (if different from final examination).

(9) Provisions for a refresher course including subsections (1)–(8) above, required for recertification.

(10) The location at which the courses are to be offered and their proposed dates.

(11) Table of contents listing the required information listed in this subsection, with corresponding page numbers.

(c) In addition to those items listed in subdivision (b) of this section, the EMS Authority shall assure that a statewide public safety agency meets the following criteria in order to approve that agency as qualified to conduct a statewide EMT–I training program:

(1) Has a statewide role and responsibility in matters affecting public safety.

(2) Has a centralized authority over its EMT–I training program instruction which can correct any elements of the program found to be in conflict with this Chapter.

(3) Has a management structure which monitors all of its EMT–I training programs.

(4) Has designated a liaison to the EMS Authority who shall respond to problems or conflicts identified in the operation of its EMT–I training program.

(5) In addition, these agencies shall meet the following additional requirements:

(A) Designate the principal instructor as a liaison to the EMT–I approving authority for the county in which the training is conducted; and

(B) Consult with the EMT–I approving authority for the county in which the training is located in developing the EMS System Orientation portion of the EMT–I course.

(d) The EMT–I approving authority shall make available to the EMS Authority, upon request, any or all materials submitted pursuant to this section by an approved EMT–I training program in order to allow the EMS Authority to make the determination required by Section 1797.173 of the Health and Safety Code.

NOTE: Authority cited: Sections 1797.107, 1797.109 and 1797.170, Health and Safety Code. Reference: Sections 1797.170, 1797.173, 1797.208 and 1797.213, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100019 to section 100066 filed 2–6–87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 82, Nos. 39 and 36.
2. Amendment filed 6–13–94; operative 7–13–94 (Register 94, No. 24).
3. Amendment of subsection (b)(1), repealer of subsections (b)(2)–(3), new subsection (b)(2) and subsection renumbering filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).
4. Amendment of subsection (b)(9) filed 3–7–2006; operative 4–6–2006 (Register 2006, No. 10).
5. Amendment of subsection (b)(2) filed 2–22–2007; operative 3–24–2007 (Register 2007, No. 8).

§ 100067. Didactic and Skills Laboratory.

An approved EMT–I training program shall assure that no more than ten (10) students are assigned to one (1) principal instructor/teaching assistant during skills practice/laboratory sessions.

NOTE: Authority cited: Sections 1797.107, 1797.109, 1797.170 and 1797.173, Health and Safety Code. Reference: Sections 1797.170, 1797.173 and 1797.208, Health and Safety Code.

HISTORY

1. New section filed 2–6–87; effective thirtieth day thereafter (Register 87, No. 10).

§ 100068. Clinical Experience for EMT–I.

Each approved EMT–I training program shall have written agreement(s) with one or more general acute care hospital(s) and/or operational ambulance provider(s) or rescue vehicle provider(s) for the clinical portion of the EMT–I training course. The written agreement(s) shall specify the roles and responsibilities of the training program and the clinical provider(s) for supplying the supervised clinical experience for the EMT–I student(s). Supervision for the clinical experience shall be pro-

vided by an individual who meets the qualifications of a principal instructor or teaching assistant. No more than three (3) students will be assigned to one (1) qualified supervisor during the supervised clinical experience.

NOTE: Authority cited: Sections 1797.107, 1797.109, 1797.170 and 1797.173, Health and Safety Code. Reference: Sections 1797.170, 1797.173 and 1797.208, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100021 to section 100068 filed 2–6–87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 82, Nos. 39 and 36.
2. Amendment of section heading and text filed 6–13–94; operative 7–13–94 (Register 94, No. 24).

§ 100069. Program Approval.

(a) In accordance with Section 100057(a) the EMS Authority shall notify the training program submitting its request for training program approval within seven (7) days of receiving the request that:

(1) The request has been received,

(2) The request contains or does not contain the information requested in Section 100066 of this Chapter and,

(3) What information, if any, is missing from the request.

(b) Program approval or disapproval shall be made in writing by the EMT–I approving authority to the requesting training program within a reasonable period of time after receipt of all required documentation. This time period shall not exceed three (3) months.

(c) The EMT–I approving authority shall establish the effective date of program approval in writing upon the satisfactory documentation of compliance with all program requirements.

(d) Program approval shall be for four (4) years following the effective date of program approval and may be renewed every four (4) years subject to the procedure for program approval specified in this section.

(e) Approved EMT–I training programs shall also receive approval as a continuing education provider effective the same date as the EMT–I training program approval. The continuing education program expiration date shall be the same expiration date as the EMT–I training program. The continuing education provider shall comply with all of the requirements contained in Chapter 11 of this Division.

NOTE: Authority cited: Sections 1797.107, 1797.109 and 1797.170, Health and Safety Code. Reference: Sections 1797.109, 1797.170, 1797.173 and 1797.208, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100023 to section 100069 filed 2–6–87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 82, Nos. 39 and 36.
2. Amendment filed 6–13–94; operative 7–13–94 (Register 94, No. 24).
3. New subsection (e) filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100070. Teaching Staff.

Each EMT–I training program shall provide for the functions of administrative direction, medical quality coordination, and actual program instruction. Nothing in this section precludes the same individual from being responsible for more than one of the following functions if so qualified by the provisions of this section:

(a) Each EMT–I training program shall have an approved program director who shall be qualified by education and experience in methods, materials, and evaluation of instruction which shall be documented by at least forty hours in teaching methodology. The courses include but are not limited to the following examples:

(1) State Fire Marshall Instructor 1A and 1B,

(2) National Fire Academy's Instructional Methodology,

(3) Training programs that meet the United States Department of Transportation/National Highway Traffic Safety Administration 2002 Guidelines for Educating EMS Instructors such as the National Association of EMS Educators Course.

(b) Duties of the program director, in coordination with the program clinical coordinator, shall include but not be limited to:

(1) Administering the training program.

(2) Approving course content.

(3) Approving all written examinations and the final skills examination.

(4) Coordinating all clinical and field activities related to the course.

(5) Approving the principal instructor(s) and teaching assistants.

(6) Signing all course completion records.

(7) Assuring that all aspects of the EMT–I training program are in compliance with this Chapter and other related laws.

(c) Each training program shall have an approved program clinical coordinator who shall be either a physician, registered nurse, physician assistant, or a paramedic currently licensed in California, and who shall have two (2) years of academic or clinical experience in emergency medicine or prehospital care in the last five (5) years. Duties of the program clinical coordinator shall include, but not be limited to:

(1) Responsibility for the overall quality of medical content of the program;

(2) Approval of the qualifications of the principal instructor(s) and teaching assistant(s).

(d) Each training program shall have a principal instructor(s), who may also be the program clinical coordinator or program director, who shall be qualified by education and experience in methods, materials, and evaluation of instruction, which shall be documented by at least forty hours in teaching methodology. The courses include but are not limited to the following examples:

(1) State Fire Marshal Instructor 1A and 1B,

(2) National Fire Academy's Instructional Methodology,

(3) Training programs that meet the United States Department of Transportation/National Highway Traffic Safety Administration 2002 Guidelines for Educating EMS Instructor such as the National Association of EMS Educators Course.

and who shall:

(A) Be a physician, registered nurse physician assistant, or paramedic currently licensed in California; or,

(B) Be an EMT–II or EMT–I who is currently certified in California.

(C) Have at least two (2) years of academic or clinical experience in the practice of emergency medicine or prehospital care in the last five (5) years.

(D) Be approved by the program director in coordination with the program clinical coordinator as qualified to teach the topics to which s/he is assigned. After January 1, 2006, all principal instructors from approved EMT–I Training Programs shall meet the minimum qualifications as specified in subsection (d) of this Section.

(e) Each training program may have teaching assistant(s) who shall be qualified by training and experience to assist with teaching of the course and shall be approved by the program director in coordination with the program clinical coordinator as qualified to assist in teaching the topics to which the assistant is to be assigned. A teaching assistant shall be supervised by a principal instructor, the program director and/or the program clinical coordinator.

NOTE: Authority cited: Sections 1797.107, 1797.109 and 1797.170, Health and Safety Code. Reference: Sections 1797.109, 1797.170 and 1797.208, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100027 to section 100070 filed 2–6–87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 82, Nos. 39 and 36.
2. Amendment filed 6–13–94; operative 7–13–94 (Register 94, No. 24).
3. Amendment filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100071. Program Review and Reporting.

(a) All program materials specified in this Chapter shall be subject to periodic review by the EMT–I approving authority.

(b) All programs shall be subject to periodic on–site evaluation by the EMT–I approving authority.

(c) Any person or agency conducting a training program shall notify the EMT–I approving authority in writing, in advance when possible, and in all cases within thirty (30) days of any change in course content, hours of instruction, program director or program clinical coordinator.

NOTE: Authority cited: Sections 1797.107, 1797.109 and 1797.170, Health and Safety Code. Reference: Sections 1797.109, 1797.170 and 1797.208, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100029 to section 100071 filed 2–6–87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 82, Nos. 39 and 36.
2. Amendment filed 6–13–94; operative 7–13–94 (Register 94, No. 24).

§ 100072. Withdrawal of Program Approval.

Noncompliance with any criterion required for program approval, use of any unqualified teaching personnel, or noncompliance with any other applicable provision of this Chapter may result in suspension or revocation of program approval by the EMT–I approving authority. An approved EMT–I training program shall have no more than (60) days from date of written notice to comply with this Chapter.

NOTE: Authority cited: Sections 1797.107, 1797.109 and 1797.170, Health and Safety Code. Reference: Sections 1797.109, 1797.170, 1797.208 and 1798.202, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100031 to section 100072 filed 2–6–87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 82, Nos. 39 and 36.
2. Amendment filed 6–13–94; operative 7–13–94 (Register 94, No. 24).

§ 100073. Components of an Approved Program.

(a) An approved EMT–I training program shall consist of all of the following:

(1) The EMT–I course, including clinical experience;

(2) Periodic and a final written and skill competency examinations;

(3) A challenge examination; and

(4) A refresher course required for recertification.

(b) The local EMS agency may approve a training program that offers only refresher course(s).

NOTE: Authority cited: Sections 1797.107, 1797.109, 1797.170 and 1797.175, Health and Safety Code. Reference: Sections 1797.109, 1797.170 and 1797.208, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100033 to section 100073 filed 2–6–87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 82, Nos. 39 and 36.
2. Amendment filed 6–13–94; operative 7–13–94 (Register 94, No. 24).

§ 100074. Required Course Hours.

(a) The EMT–I course shall consist of not less than one hundred twenty hours. These training hours shall be divided into:

(1) A minimum of one hundred ten hours of didactic instruction and skills laboratory; and

(2) A minimum of ten hours of supervised clinical experience. The clinical experience shall include five patient contacts wherein a patient assessment and other EMT–I skills are performed.

(b) The minimum hours shall not include the examinations for EMT–I certification.

NOTE: Authority cited: Sections 1797.107, 1797.109 and 1797.170, Health and Safety Code. Reference: Section 1797.170, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100035 to section 100072 filed 2–6–87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 82, Nos. 39 and 36.
2. Amendment filed 6–13–94; operative 7–13–94 (Register 94, No. 24).
3. Amendment of subsections (a)–(a)(1) filed 1–11–2000; operative 2–10–2000 (Register 2000, No. 2).
4. Amendment filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100075. Required Course Content.

The minimum EMT–I course content shall consist of:

(a) The United States Department of Transportation's EMT–Basic *National Standard Curriculum*, DOT HS 808 149, August 1994,

NOTE: Authority cited: Sections 1797.107, 1797.109 and 1797.170, Health and Safety Code. Reference: Sections 1797.170 and 1797.173, Health and Safety Code.

HISTORY

1. New section filed 2–6–87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 82, Nos. 39 and 36.
2. Amendment filed 6–13–94; operative 7–13–94 (Register 94, No. 24).
3. Change without regulatory effect amending subsections (b)(2)(D) and (b)(2)(E) filed 3–2–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 9).
4. Editorial correction of subsection (p)(8) (Register 95, No. 44).
5. Amendment of subsection (f)(2)(G) and new subsections (f)(2)(G)1.–6. filed 1–11–2000; operative 2–10–2000 (Register 2000, No. 2).
6. Amendment filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100076. Required Testing.

Each component of an approved program shall include periodic and final competency–based examinations to test the knowledge and skills specified in this Chapter. Satisfactory performance in these written and skills examinations shall be demonstrated for successful completion of the course. Satisfactory performance shall be determined by preestablished standards, developed and/or approved by the EMT–I approving authority pursuant to Section 100066 of this Chapter.

NOTE: Authority cited: Sections 1797.107, 1797.109 and 1797.170, Health and Safety Code. Reference: Sections 1797.109, 1797.170, 1797.208 and 1797.210, Health and Safety Code.

HISTORY

1. Repealer of former section 100076 and renumbering and amendment of former section 100078 to section 100076 filed 6–13–94; operative 7–13–94 (Register 94, No. 24). For prior history, see Register 87, No. 10.

§ 100077. Course Completion Record.

(a) An approved EMT–I training program provider shall issue a tamper resistant course completion record to each person who has successfully completed the EMT–I course, refresher course, or challenge examination.

(b) The course completion record shall contain the following:

(1) The name of the individual.

(2) The date of course completion.

(3) Type of EMT–I course completed (i.e., EMT–I, refresher, or challenge), and the number of hours completed.

(4) The EMT–I approving authority.

(5) The signature of the program director.

(6) The name and location of the training program issuing the record.

(7) The following statement in bold print.

"This is not an EMT–I certificate".

(c) This course completion record is valid to apply for certification for a maximum of two years from the course completion date and shall be recognized statewide.

(d) The name and address of each person receiving a course completion record and the date of course completion shall be reported in writing to the appropriate EMT–I certifying authority within fifteen days of course completion.

(e) Approved EMT–I training programs which are also approved EMT–I Certifying Authorities need not issue a Course Completion record to those students who will receive certification from the same agency.

NOTE: Authority cited: Sections 1797.107, 1797.109 and 1797.170, Health and Safety Code. Reference: Sections 1797.109 and 1797.170, Health and Safety Code.

HISTORY

1. Repealer of former section 100077 and renumbering and amendment of former section 100079 to section 100077 filed 6–13–94; operative 7–13–94 (Register 94, No. 24). For prior history, see Register 87, No. 10.
2. Amendment filed 1–11–2000; operative 2–10–2000 (Register 2000, No. 2).
3. Amendment of subsections (a), (b)(3), (c) and (d) filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100078. Course Completion by Challenge Examination.

(a) An individual may obtain an EMT–I course completion record by successfully passing by pre–established standards, developed and/or approved by the EMT–I approving authority pursuant to Section 100066 of this Chapter, a course challenge examination if s/he meets one of the following eligibility requirements:

(1) The person is a currently licensed physician, registered nurse, physician assistant, vocational nurse, or licensed practical nurse.

(2) The person provides documented evidence of having successfully completed an emergency medical service training program of the Armed Forces including the Coast Guard of the United States within the preceding two (2) years which meets the Department of Transportation EMT–I course guidelines. Upon review of documentation, the EMT–I certifying authority may also allow an individual to challenge if the individual was active in the last two (2) years in a prehospital emergency medical classification of the Armed Services, including the Coast Guard of the United States, which does not have formal recertification requirements. These individuals may be required to take a refresher course or complete continuing education courses as a condition of certification.

(b) The course challenge examination shall consist of a competency–based written and skills examination to test knowledge of the topics and skills as prescribed in this Chapter.

(c) An approved EMT–I training program shall offer an EMT–I challenge examination no less than once each time the EMT–I course is given, (unless otherwise specified by the program's EMT–I approving authority).

(d) The EMT–I certifying authority may provide the written and skills EMT–I challenge examination and designate such tests as the certifying examination.

(e) An eligible person shall be permitted to take the EMT–I course challenge examination only one time.

(f) An individual who fails to achieve a passing score on the EMT–I course challenge examination shall successfully complete an EMT–I course to receive an EMT–I course completion record.

NOTE: Authority cited: Sections 1797.107, 1797.109 and 1797.170, Health and Safety Code. Reference: Sections 1797.109, 1797.170, 1797.208 and 1797.210, Health and Safety Code.

HISTORY

1. Repealer of former section 100078 to section 100076 and renumbering and amendment of former section 100080 to section 100078 filed 6–13–94; operative 7–13–94 (Register 94, No. 24). For prior history, see Register 87, No. 10.
2. Amendment of subsection (a)(1) filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).
3. Amendment of subsection (a)(1) filed 3–7–2006; operative 4–6–2006 (Register 2006, No. 10).

Article 4. EMT–I Certification

§ 100079. Certification.

(a) In order to be eligible for certification, an individual shall:

(1) Have a valid EMT–I course completion record or other documented proof of successful completion of an approved initial EMT–I course.

(2) Have documentation of successful completion of an approved out–of–state initial EMT–I training course, within the last two years which meets the requirements of this Chapter.

(3) Apply for certification within two years of the date of course completion.

(4) Prior to January 1, 2006, pass, by preestablished standards developed and/or approved by the EMT–I certifying authority pursuant to this Section and Section 100066 of this Chapter, a competency–based written and skills certifying examination. After January 1, 2006, pass by pre–established standards the written examination and skills examination approved by the EMS Authority.

(5) Be eighteen years of age or older.

(6) Comply with other reasonable requirements, as may be established by the EMT–I certifying authority, such as:

(A) Complete an application form.

(B) Complete a statement that the individual is not precluded from certification for reasons defined in Section 1798.200 of the Health and Safety Code.

(C) Live scan or criminal background check from the California Department of Justice.

(D) Pay the established fee.

(E) Furnish a current photograph for identification purposes.

(F) Complete the additional training specified in Section 100063(b), and Section 100064 if applicable, of this Chapter.

(G) Attend orientation on local EMS policies, procedures and protocols.

(b) In order for an individual, whose California EMT–II certification or Paramedic License has lapsed, to be eligible for certification as an EMT–I the individual shall:

(1) For a lapse of less than six months, the individual shall comply with the requirements contained in Section 100080(b) or (c), (e) and (f) of this Chapter.

(2) For a lapse of six months or more, but less than twelve months, the individual shall comply with the requirements of Section 100080(b) or (c), (e), and (f) of this Chapter and complete an additional twelve hours of continuing education for a total of 36 hours of training.

(3) For a lapse of twelve months or more, but less than 24 months, the individual shall comply with the requirements of Section 100080(b) or (c), and (e) of this Chapter and complete an additional twenty–four hours of continuing education for a total of 48 hours of training and the individual shall pass the written and skills certification exam as specified in Section 100079(a)(4).

(4) For a lapse of twenty–four months or more the individual shall complete an entire EMT–I course and comply with the requirements of subsection (a) of this Section.

(c) An individual currently licensed in California as a Paramedic or currently certified in California as an EMT–II is deemed to be certified as an EMT–I except when the paramedic license or EMT–II certification is under suspension with no further testing required. In the case of a paramedic license under suspension, the paramedic shall apply to a local EMS agency for EMT–I certification.

(d) An individual who meets one of the following criteria shall be eligible for certification upon fulfilling the requirements of subsections (a)(5), and (6) of this section.

(1) Possesses a current and valid National Registry EMT Basic certificate,

(2) Possesses a current and valid out–of–state or National Registry EMT–Intermediate or Paramedic certificate

(e) An individual who possesses a current and valid out–of–state EMT–I certificate, shall be eligible for certification upon fulfilling the requirements of subsections (a)(4), (5), and (6) of this section.

(f) Prior to January 1, 2006, the certifying examination shall include:

(1) A competency–based written examination;

(2) Individual demonstration of competence in skills required in the following topics:

(A) patient examination;

(B) airway emergencies;

(C) breathing emergencies;

(D) cardiopulmonary resuscitation;

(E) automated external defibrillation;

(F) circulation emergencies;

(G) neurological emergencies;

(H) soft tissue injury;

(I) musculoskeletal injury; and

(J) obstetrical emergencies.

(3) After January 1, 2006, the single written examination and skills certifying examination shall be approved by the EMS Authority.

(g) The EMT–I certifying authority shall issue a wallet–sized certificate to eligible individuals. The certificate shall contain the following:

(1) The name of the individual certified.

(2) The date the certificate was issued.

(3) The date of expiration.

(4) The name and location of the EMT–I certifying authority.

(5) The name and signature of the individual authorized to certify, or facsimile of same.

(6) A statement that the individual named on the card has fulfilled the requirements for certification as an EMT–I in California.

(h) Certification as an EMT–I shall be for a maximum of two (2) years except in the following cases:

(1) A person who possesses a current and valid out–of–state EMT–Intermediate or Paramedic certification or a current and valid National Registry EMT–Basic, EMT–Intermediate or Paramedic certification, the expiration date shall be the same expiration date as stated on the out–of–state or National Registry certification.

(2) That an individual currently certified or licensed as an Paramedic, pursuant to subsection (c), shall have an EMT–I expiration date that is the same as the current Paramedic certificate or license.

(3) The effective date of certification, as used in this Chapter, shall be the date the individual satisfactorily completes all certification requirements and has applied for certification. The certification expiration date will be the final day of the final month of the two year period.

NOTE: Authority cited: Sections 1797.107, 1797.109, 1797.170 and 1797.175, Health and Safety Code. Reference: Sections 1797.63, 1797.109, 1797.175, 1797.177, 1797.210 and 1797.216, Health and Safety Code.

HISTORY

1. Relocation of article 4 heading, renumbering of former section 100079 to section 100077 and renumbering and amendment of former section 100081 to section 100079 filed 6–13–94; operative 7–13–94 (Register 94, No. 24). For prior history, see Register 87, No. 10.
2. Change without regulatory effect amending subsections (b) and (j) filed 3–2–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 9).
3. New subsection (g)(2)(E) and subsection relettering filed 1–11–2000; operative 2–10–2000 (Register 2000, No. 2).
4. Amendment filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).
5. Editorial correction of subsection (d) (Register 2004, No. 43).
6. Amendment of subsections (a)(1)–(2) and (j)(1) filed 3–7–2006; operative 4–6–2006 (Register 2006, No. 10).
7. Repealer of subsection (h), subsection relettering and amendment of NOTE filed 2–22–2007; operative 3–24–2007 (Register 2007, No. 8).

Article 5. Maintaining EMT–I Certification and Recertification

§ 100080. Maintaining EMT–I Certification.

In order to maintain certification, an EMT–I shall:

(a) Possess a current EMT–I Certification issued in California.

(b) Obtain at least twenty–four hours of continuing education hours (CEH) from an approved continuing education provider in accordance with the provisions contained in the Prehospital Continuing Education Chapter, Chapter 11 of this Division, or

(c) Successfully complete a twenty–four hour refresher course from an approved EMT–I training program.

(d) An individual who is currently licensed in California as a Paramedic or certified as an EMT–II, or who has been certified within six (6) months of the date of application, may be given credit for continuing education hours earned as a Paramedic or EMT–II to satisfy the continuing education requirement for EMT–I recertification as specified in this Chapter.

(e) Comply with other reasonable requirements, as may be established by the EMT–I Certifying Authority, such as:

(1) Complete an application form.

(2) Complete a statement that the individual is not precluded from certification for reasons defined in Section 1798.200 of the Health and Safety Code.

(3) Live scan or criminal background check from the California Department of Justice.

(4) Pay the established fee.

(5) Furnish a current photograph for identification purposes.

(6) Complete the additional training specified in Section 100063(b), and Section 100064 if applicable, of this Chapter.

(7) Attend an orientation on local EMS policies, procedures and protocols.

(f) Submit a completed skills competency verification form, EMSA–SCV (07/03). Form EMSA–SCV (07/03) is herein incorporated by reference. Skills competency shall be verified by direct observation of an actual or simulated patient contact. Skills competency shall be verified by an individual who is currently certified or licensed as an EMT–I, EMT–II, Paramedic, RN, PA, or physician and who shall be designated by an EMS approved training program (EMT–I training program, paramedic training program or continuing education provider) or an EMS service provider; EMS service providers include, but are not limited to public safety agencies, private ambulance providers and other EMS providers. The skills requiring verification of competency are:

(1) Patient examination, trauma patient
(2) Patient examination, medical patient
(3) Airway emergencies
(4) Breathing emergencies
(5) Automated external defibrillation
(6) Circulation emergencies
(7) Neurological emergencies
(8) Soft tissue injuries
(9) Musculoskeletal injuries
(10) Obstetrical emergencies

(g) If the maintenance of certification requirements are met within six months prior to the expiration date, the EMT–I Certifying Authority shall make the effective date of certification the expiration date of the current certificate. The certification expiration date will be the final day of the final month of the two year period.

(h) If the maintenance of certification requirements are met greater than six months prior to the expiration date, the EMT–I Certifying authority shall make the effective date of certification the date the individual satisfactorily completes all certification requirements and has applied for certification. The certification expiration date shall be the final day of the final month of the two year period.

(i) The EMT–I Certifying Authority shall issue a wallet–sized certificate to eligible individuals who apply for maintaining EMT–I certification. The certificate shall contain the information specified in Section 100079, Subsection (i).

NOTE: Authority cited: Sections 1797.107, 1797.109, 1797.170 and 1797.175, Health and Safety Code. Reference: Sections 1797.109, 1797.170, 1797.210 and 1797.216, Health and Safety Code.

HISTORY

1. Relocation and amendment of article 5 heading, renumbering of former section 100080 to section 100078 and new section filed 6–13–94; operative 7–13–94 (Register 94, No. 24). For prior history, see Register 87, No. 10.
2. Amendment of subsections (c) and (d)(2) filed 1–11–2000; operative 2–10–2000 (Register 2000, No. 2).
3. Amendment of article heading, section heading and section filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100081. Recertification After Lapse in Certification.

(a) In order to be eligible for recertification for an individual whose EMT–I Certification has lapsed, the following requirements shall apply:

(1) For a lapse of less than six months, the individual shall comply with the requirements contained in Section 100080(b) or (c), (e) and (f) of this Chapter.

(2) For a lapse of six months or more, but less than twelve months, the individual shall comply with the requirements of Section 100080(b) or (c), (e), and (f) of this Chapter and complete an additional twelve hours of continuing education for a total of 36 hours of training.

(3) For a lapse of twelve months or more, but less than 24 months, the individual shall comply with the requirements of Section 100080(b) or (c), and (e) of this Chapter and complete an additional twenty–four hours of continuing education for a total of 48 hours of training and the individual shall pass the written and skills certification exam as specified in Section 100079(a)(4).

(4) For a lapse of twenty–four months the individual shall complete an entire EMT–I course and comply with the requirements of Section 100079(a).

(b) The effective date of certification as used in this Chapter shall be the date the individual satisfactorily completes all certification requirements and has applied for certification. The certification expiration date shall be the final day of the final month of the two year period.

(c) The EMT–I certifying authority shall issue a wallet–sized certificate to eligible persons who apply for recertification. That certificate shall contain the information specified in Section 100079, subsection (i).

NOTE: Authority cited: Sections 1797.107, 1797.109, 1797.170 and 1797.175, Health and Safety Code. Reference: Sections 1797.109, 1797.170, 1797.175, 1797.210 and 1797.216, Health and Safety Code.

HISTORY

1. Relocation of article heading, renumbering of former section 100081 to section 100079 and renumbering and amendment of former section 100084 to section 100081 filed 6–13–94; operative 7–13–94 (Register 94, No. 24). For prior history, see Register 87, No. 10.
2. Change without regulatory effect amending subsection (b) filed 3–2–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 9).
3. Amendment of subsection (a)(2) and new subsection (a)(4) filed 1–11–2000; operative 2–10–2000 (Register 2000, No. 2).
4. Amendment of section heading and section filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

Article 6. Record Keeping and Fees

§ 100082. Record Keeping.

(a) Each EMT–I approving authority shall maintain a list of approved training programs within its jurisdiction and provide the EMS Authority with a copy. The EMS Authority shall be notified of any changes in the list of approved training programs as such occur.

(b) Each EMT–I approving authority shall maintain a list of current EMT–I program directors, clinical coordinators and principal instructors within its jurisdiction.

(c) The EMS Authority shall maintain a record of approved EMT–I training programs.

(d) Each EMT–I certifying authority shall, at a minimum, maintain a list of all EMT–Is certified or recertified by them in the preceding four (4) years. Each EMT–I certifying authority shall maintain a list of all EMT–Is whose certificate has been suspended or revoked and submit the names to the EMS Authority as such occurs.

(e) A local EMS agency that suspends or revokes an EMT–I certificate shall notify the EMT–I certifying authority that issued the certificate.

(f) A local EMS agency may develop policies and procedures which require basic life support services to make available the records of calls maintained in accordance with Section 1100.7, Title 13 of the California Code of Regulations.

(g) Each local EMS agency shall collect and report annually, to the EMS Authority on:

(1) The total number of patients, defibrillated, who were discharged from the hospital alive, and

(2) The data collected by EMT AED service providers pursuant to Section 100063.1 of this chapter.

NOTE: Authority cited: Sections 1797.107, 1797.109, 1797.170 and 1797.175, Health and Safety Code. Reference: Sections 1797.109, 1797.170, 1797.173, 1797.200, 1797.202, 1797.204, 1797.208 and 1797.220, Health and Safety Code.

HISTORY

1. Relocation of article 6 heading, repealer of former section 100082 and renumbering and amendment of former section 100085 to section 100082 filed 6–13–94; operative 7–13–94 (Register 94, No. 24). For prior history, see Register 87, No. 10.
2. New subsections (g)–(g)(2) filed 1–11–2000; operative 2–10–2000 (Register 2000, No. 2).

§ 100083. Fees.

A local EMS agency may establish a schedule of fees for EMT–I training program review approval, EMT–I certification and EMT–I recertification in an amount sufficient to cover the reasonable cost of complying with the provisions of this Chapter.

NOTE: Authority cited: Sections 1797.107, 1797.109 and 1797.170, Health and Safety Code. Reference: Sections 1797.170, 1797.212 and 1797.213, Health and Safety Code.

HISTORY

1. Repealer of former section 100083 and renumbering and amendment of former section 100086 to section 100083 filed 6–13–94; operative 7–13–94 (Register 94, No. 24). For prior history, see Register 87, No. 10.

§ 100084. Recertification.

NOTE: Authority cited: Sections 1797.107, 1797.109, 1797.170 and 1797.175, Health and Safety Code. Reference: Sections 1797.109, 1797.170, 1797.175, 1797.210 and 1797.216, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100053 to section 100084 filed 2–6–87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 82, Nos. 39 and 36.
2. Relocation of article heading and renumbering of former section 100084 to section 100081 filed 6–13–94; operative 7–13–94 (Register 94, No. 24).

§ 100085. Record Keeping.

NOTE: Authority cited: Sections 1797.107, 1797.109, 1797.170 and 1797.175, Health and Safety Code. Reference: Sections 1797.109, 1797.170, 1797.173, 1797.200, 1797.202, 1797.204 and 1797.208, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100055 to section 100085 filed 2–6–87; effective thirtieth day thereafter (Register 87, No. 10). For prior history, see Register 82, Nos. 39 and 36.
2. Relocation of article heading and renumbering of former section 100085 to section 100082 filed 6–13–94; operative 7–13–94 (Register 94, No. 24).

§ 100086. Fees.

NOTE: Authority cited: Sections 1797.107, 1797.109 and 1797.170, Health and Safety Code. Reference: Sections 1797.170, 1797.212 and 1797.213, Health and Safety Code.

HISTORY

1. New section filed 2–6–87; effective thirtieth day thereafter (Register 87, No. 10).
2. Renumbering of former section 100086 to section 100083 filed 6–13–94; operative 7–13–94 (Register 94, No. 24).

Chapter 3. Emergency Medical Technician–II

Article 1. Definitions

§ 100101. EMT–II Approving Authority.

"EMT–II Approving Authority" means the local Emergency Medical Services Agency.

NOTE: Authority cited: Sections 1797.107 and 1797.171, Health and Safety Code. Reference: Sections 1797.171, 1797.200 and 1797.208, Health and Safety Code.

HISTORY

1. New Chapter 3 (Sections 100101–100130) filed 1–3–85; effective thirtieth day thereafter (Register 85, No. 1).

§ 100102. EMT–II Certifying Authority.

"EMT–II Certifying Authority" means the medical director of the local EMS Agency.

NOTE: Authority cited: Sections 1797.107 and 1797.171, Health and Safety Code. Reference: Sections 1797.171 and 1797.210, Health and Safety Code.

§ 100103. Emergency Medical Technician–II.

"Emergency Medical Technician–II" or "EMT–II" means an EMT–I who has been educated and trained in specified prehospital advanced life support topics and skills, whose scope of practice to provide limited advanced life support is in accordance with the standards prescribed by this Chapter, and who has a valid certificate issued pursuant to this Chapter.

NOTE: Authority cited: Sections 1797.107 and 1797.171, Health and Safety Code. Reference: Sections 1797.82 and 1797.171, Health and Safety Code.

§ 100104. Certifying Examination.

"Certifying Examination," as used in this Chapter, means an examination either administered by or approved by the EMT–II Certifying Authority and given to an individual applying for certification as an EMT–II. The examination shall include both written and skills testing portions

designed to determine an individual's competence for certification as an EMT–II.

NOTE: Authority cited: Sections 1797.107, 1797.171 and 1797.175, Health and Safety Code. Reference: Sections 1797.171, 1797.175 and 1797.210, Health and Safety Code.

Article 2. General Provisions

§ 100105. Application of Chapter.

(a) Any local EMS Agency which authorizes an EMT–II training program, or a limited advanced life support service which provides services utilizing EMT–II personnel, shall be responsible for approving EMT–II training programs, EMT–II service providers, EMT–II base hospitals, and for developing and enforcing standards, regulations, policies, and procedures in accordance with this Chapter so as to provide for quality assurance, appropriate medical control, and coordination of the EMT–II personnel and training program(s) within an EMS system.

(b) No person or organization shall offer an EMT–II training program, or hold themselves out as offering an EMT–II training program, or provide limited advanced life support services, or hold themselves out as providing limited advanced life support services utilizing EMT–IIs unless that person or organization is authorized by the local EMS Agency.

(c) A local EMS agency shall not authorize the displacement of existing advanced life support services (EMT–P) with limited advanced life support services (EMT–II) without first determining that the geography, population density, and resources render continuation of advanced life support services infeasible.

[The next page is 1381.]

NOTE: Authority cited: Sections 1797.107 and 1797.171, Health and Safety Code. Reference: Sections 1797.171, 1797.178, 1797.200, 1797.204, 1797.206, 1797.208, 1797.218, 1797.220, 1798 and 1798.100, Health and Safety Code.

§ 100106. Scope of Practice of Emergency Medical Technician II (EMT–II).

(a) An EMT–II may perform any activity identified in the scope of practice of an EMT–I in Chapter 2 of this Division.

(b) A certified EMT–II or an EMT–II trainee, while caring for patients in a hospital as part of their training or continuing education, under the direct supervision of a physician or registered nurse, or while at the scene of a medical emergency or during transport, or during interfacility transfer when medical direction is maintained by a physician or an authorized registered nurse and according to the policies and procedures approved by the local EMS Agency, may:

(1) Perform pulmonary ventilation by use of the esophageal airway.

(2) Institute intravenous (IV) catheters, needle or other cannulae (IV lines), in peripheral veins.

(3) Administer intravenous glucose solutions or isotonic balanced salt solutions, including Ringer's lactate solution.

(4) Obtain venous blood samples for laboratory analysis.

(5) Apply and use pneumatic antishock trousers.

(6) Administer, using prepackaged products where available, the following drugs:

(A) Sublingual nitroglycerine preparations;

(B) syrup of ipecac;

(C) lidocaine hydrochloride;

(D) atropine sulfate;

(E) sodium bicarbonate;

(F) naloxone;

(G) furosemide;

(H) epinephrine; and

(I) 50% dextrose.

(7) Defibrillate a patient in ventricular fibrillation.

(8) Cardiovert an unconscious patient in ventricular tachycardia.

(9) Assess and manage patients with the conditions listed in Section 100120 of this Chapter.

(10) Perform the following optional procedures or administer the following optional drugs when such are approved by the medical director of the local EMS Agency, and included in the written policies and procedures of the local EMS Agency, and when the EMT–II has been trained and successfully tested in those topics and skills as required to demonstrate competence in the additional practice(s):

(A) Perform gastric suction by nasogastric or orogastric intubation or through the esophageal gastric tube airway;

(B) visualize the airway by use of the laryngoscope and remove foreign body(ies) with forceps in airway obstruction;

(C) perform pulmonary ventilation by use of endotracheal intubation;

(D) administer calcium chloride;

(E) administer morphine sulfate; and

(F) utilize snake bite kits and constricting bands.

(c) The local EMS Agency may approve policies and procedures to be used in the event that an EMT–II at the scene of an emergency attempts direct voice contact with a physician or authorized registered nurse but cannot establish or maintain that contact and reasonably determines that a delay in treatment may jeopardize the life of a patient. The EMT–II may initiate any EMT–II activity authorized in this section in which the EMT–II has received training, when authorized by the policies and procedures of the local EMS Agency, and certification until such direct communication may be established and maintained or until the patient is brought to a general acute care hospital.

(d) An EMT–II may initiate only the following forms of emergency treatment prior to attempting voice or telemetry contact with a physician or authorized registered nurse in accordance with written policies and procedures approved by the local EMS Agency:

(1) Administer intravenous glucose solutions or isotonic balanced salt solutions, including Ringer's lactate solution, when it is reasonably determined that the patient has sustained cardiac or respiratory arrest or is in extremis from circulatory shock.

(2) Perform pulmonary ventilation by use of an esophageal airway, or endotracheal intubation if certified to do so, when it is reasonably determined that a patient has sustained a respiratory arrest.

(3) Apply and use pneumatic antishock trousers when it is reasonably determined that the condition of the patient necessitates such action.

(4) Defibrillate a patient in ventricular fibrillation.

(5) Cardiovert an unconscious patient in ventricular tachycardia.

(6) Visualize the airway by use of the laryngoscope and remove foreign body(ies) with forceps in complete airway obstruction.

(e) In each instance where limited advanced life support procedures are initiated in accordance with the provisions of subsection (c) of this section, immediately upon ability to make voice contact, the EMT–II who has initiated such procedures shall make a verbal report to the EMT–II base or satellite hospital physician or authorized registered nurse. Written documentation of the event shall be filed with the EMT–II base hospital physician, when possible, immediately upon delivery of the patient to a hospital, but in no case shall the filing of such documentation be delayed more than twenty–four (24) hours. Documentation shall contain the reason or reasons, or suspected reason or reasons, why the communication failed and the emergency medical procedures initiated and maintained, including, but not limited to, evaluation of the patient, treatment decisions, and responses to treatment by the patient. The base hospital physician shall evaluate this report and forward the report and evaluation to the medical director of the local EMS Agency within seventy–two (72) hours.

(f) The scope of practice of an EMT–II shall not exceed those activities authorized in this section unless specifically approved in accordance with the provisions of subsection (b)(10) of this section.

NOTE: Authority cited: Sections 1797.107 and 1797.171, Health and Safety Code. Reference: Sections 1797.171 and 1798.4, Health and Safety Code.

§ 100107. Responsibility of the Local EMS Agency.

The local EMS Agency, which authorizes a limited advanced life support program, shall establish policies and procedures which shall include, but not be limited to, the following:

(a) Development or approval, monitoring, and enforcement of standards, policies, and procedures for the EMS system which relates to the EMT–II.

(b) Approval, denial, revocation of approval, and suspension of training programs, EMT–II base and satellite hospitals, and EMT–II service providers.

(c) Assurance of compliance of the EMT–II training program and the EMS system with the provisions of this Chapter.

(d) Submission annually to the State EMS Authority the names of approved EMT–II training programs and the number of currently certified EMT–IIs.

(e) Monitoring and evaluation of the EMS system as it applies to EMT–II personnel.

(f) Development or approval, implementation and enforcement of policies for medical control and medical accountability for the EMT–II including:

(1) General treatment and triage protocols.

(2) EMT–II patient care record and reporting requirements.

(3) Field medical care protocols.

(4) Medical care audit system.

(5) Role and responsibility of the EMT–II base and satellite hospital and EMT–II service provider.

(g) System data collection and evaluation.

NOTE: Authority cited: Sections 1797.107 and 1797.171, Health and Safety Code. Reference: Sections 1797.171, 1797.178, 1797.200, 1797.202, 1797.204, 1797.206, 1797.208, 1797.210, 1797.220, 1798 and 1798.100, Health and Safety Code.

Article 3. Program Requirements for EMT–II Training Programs

§ 100108. Approved Training Programs.

(a) The purpose of an EMT–II training program shall be to prepare eligible EMT–Is to render prehospital limited advanced life support within an organized EMS system.

(b) EMT–II training shall be offered only by approved training programs. Eligibility for training program approval shall be limited to the following institutions:

(1) Accredited universities and colleges, including junior and community colleges, and private post–secondary schools.

(2) Medical training units of a branch of the Armed Forces or Coast Guard of the United States.

(3) Licensed general acute care hospitals which meet the following criteria:

(A) Hold a special permit to operate a Basic or Comprehensive Emergency Medical Service pursuant to the provisions of Division 5; and

(B) Provide continuing education to other health care professionals.

(4) Agencies of government.

NOTE: Authority cited: Sections 1797.107, 1797.171 and 1797.173, Health and Safety Code. Reference: Sections 1797.171, 1797.173 and 1797.208, Health and Safety Code.

§ 100109. Teaching Staff.

(a) Each program shall have an approved program medical director who shall be a physician currently licensed in the State of California, who has two (2) years academic or clinical experience in emergency medicine in the last five (5) years, and who is qualified by education or experience in methods of instruction. Duties of the program medical director shall include, but not be limited to:

(1) Approval of all course content.

(2) Approval of content of all written and skills examinations.

(3) Approval of provision for hospital clinical and field internship experiences.

(4) Approval of principal instructor(s) qualifications.

(b) Each program shall have an approved course director who shall be a physician or registered nurse currently licensed in the State of California, or an individual who holds a baccalaureate degree or equivalent in a related health field or equivalent. The course director shall have a minimum of one year experience in an administrative or management level position and have a minimum of two (2) years academic or clinical experience in prehospital care education within the last five (5) years. Duties of the course director shall include but not be limited to:

(1) Administration of the training program.

(2) In coordination with the program medical director, approve the principal instructor, teaching assistants, field preceptors, clinical and internship assignments, and coordinate the development of curriculum.

(3) Ensure training program compliance with this Chapter and other related laws.

(4) Sign all course completion records.

(c) Each program shall have principal instructor(s) who may also be the program medical director or course director, who shall:

(1) Be a physician, registered nurse, or a physician assistant currently licensed in the State of California; or

(2) Be an EMT–P or an EMT–II currently certified in the State of California.

(3) Have two (2) years academic or clinical experience in emergency medicine within the last five (5) years.

(4) Be approved by the course director in coordination with the program medical director as qualified to teach those sections of the course to which s/he is assigned.

(5) Be responsible for areas including, but not limited to, curriculum development, course coordination, and instruction.

(d) Each program may have a teaching assistant'(s) who shall be an individual(s) qualified by training and experience to assist with teaching of the course and shall be approved by the course director in coordination with the program medical director as qualified to assist in teaching the topics to which the assistant is to be assigned. A teaching assistant shall be directly supervised by a principal instructor, the course director, and/or the program medical director.

(e) Each program shall have a field preceptor(s) who shall:

(1) Be a physician, registered nurse, or physician assistant currently licensed in the State of California; or

(2) Be an EMT–P or an EMT–II currently certified in the State of California; and

(3) Have two (2) years academic or clinical experience in emergency medicine within the last five (5) years.

(4) Be approved by the course director in coordination with the program medical director to provide training and evaluation of an EMT–II trainee during field internship with an authorized service provider.

(5) Be under the supervision of a principal instructor, the course director and/or program medical director.

(f) Each program shall have a hospital clinical preceptor(s) who shall:

(1) Be a physician, registered nurse, or physician assistant who is currently licensed in the State of California.

(2) Have two (2) years academic or clinical experience in emergency medicine within the last five (5) years.

(3) Be approved by the course director in coordination with the program medical director to provide evaluation of an EMT–II trainee during the clinical training.

NOTE: Authority cited: Sections 1797.107 and 1797.171, Health and Safety Code. Reference: Sections 1797.171 and 1797.208, Health and Safety Code.

§ 100110. Didactic and Skills Laboratory.

An approved EMT–II training program shall assure that no more than six (6) trainees are assigned to one (1) instructor/teaching assistant during the skills practice/laboratory sessions.

NOTE: Authority cited: Sections 1797.107, 1797.171 and 1797.173, Health and Safety Code. Reference: Sections 1797.171, 1797.173 and 1797.208, Health and Safety Code.

§ 100111. Hospital Clinical Training for EMT–II.

(a) An approved EMT–II training program shall provide for and monitor a supervised clinical experience at a hospital(s) which is licensed as a general acute care hospital.

(b) At least fifty (50) percent of the clinical experience shall be obtained from the EMT–II trainee's assigned base hospital.

(c) Training programs in nonhospital institutions shall enter into a written agreement(s) with a licensed general acute care hospital(s) which holds a permit to operate a Basic or Comprehensive Emergency Medical Service for the purpose of providing this supervised clinical experience as well as a clinical preceptor(s) to instruct and evaluate the student.

(d) EMT–II clinical training hospital(s) shall provide clinical experience, supervised by a clinical preceptor(s) approved by the training program medical director. Hospitals providing clinical training and experience shall be approved by the program medical director, and shall provide for continuous assessment of student performance. No more than two (2) trainees will be assigned to one (1) preceptor during the supervised hospital clinical experience at any one time. The clinical preceptor may assign the trainee to another health professional for selected clinical experience. Clinical experience shall be monitored by the training program staff and shall include direct patient care responsibilities including the administration of additional drugs which are designed to result in the competencies specified in this Chapter. Clinical assignments shall include, but not be limited to: emergency, surgical, cardiac, obstetric, and pediatric patients.

(e) Clinical activities may be instituted on a modular basis.

(f) The EMT–II training program shall establish criteria to be used by clinical preceptors to evaluate trainees. Verification of successful performance in the prehospital setting shall be required prior to course completion or certification.

NOTE: Authority cited: Sections 1797.107, 1797.171 and 1797.173, Health and Safety Code. Reference: Sections 1797.171, 1797.173 and 1797.208, Health and Safety Code.

§ 100112. Field Internship.

(a) An approved EMT–II training program shall provide for and monitor a field internship with a designated EMT–II or EMT–P service provider(s) approved by the training program medical director and affiliated with a designated base hospital.

(b) After obtaining the approval of the local EMS Agency the EMT–II training program shall enter into a written agreement with an EMT–II or EMT–P service provider(s) to provide for this field internship, as well as for a field preceptor(s) to directly supervise, instruct and evaluate students. The field internship shall include direct patient care responsibilities which, when combined with the other parts of the training program, shall result in the EMT–II competencies specified in this Chapter.

(c) The field internship shall be medically supervised and monitored in accordance with the policies of the local EMS Agency.

(d) No more than one (1) EMT–II trainee shall be assigned to an EMT–II response vehicle during the field internship.

(e) Field internship may be instituted on a modular basis.

(f) The EMT–II training program shall establish evaluation criteria to be used by field preceptors to evaluate trainees.

NOTE: Authority cited: Sections 1797.107, 1797.171 and 1797.173, Health and Safety Code. Reference: Sections 1797.171, 1797.173 and 1797.208, Health and Safety Code.

§ 100113. Procedure for Program Approval.

(a) Eligible training institutions as defined in Section 100108 of this Chapter, that wish to be approved as an EMT–II training program shall submit a written request for EMT–II program approval to the EMT–II Approving Authority.

(b) The EMT–II Approving Authority shall receive and review the following prior to program approval:

(1) A statement of course objectives.

(2) A course outline.

(3) Performance objectives for each skill.

(4) The name and qualifications of the training program course director, program medical director, and principal instructors.

(5) Provisions for supervised hospital clinical training, including standardized forms for evaluating EMT–II trainees.

(6) Provisions for supervised field internship, including standardized forms for evaluating EMT–II trainees.

(7) The location at which the course(s) are to be offered and their proposed dates.

(c) The EMT–II Approving Authority shall review the following prior to program approval:

(1) Samples of written and skills examinations used for periodic testing.

(2) A final skills competency examination.

(3) A final written examination.

(4) Evidence that the program provides adequate facilities, equipment, examination security, and student record keeping.

(d) The EMT–II Approving Authority shall make available to the State EMS Authority, upon request, any or all materials submitted pursuant to this Section by an approved EMT–II training program in order to allow the State EMS Authority to make the determinations required by Section 1797.173 of the Health and Safety Code.

NOTE: Authority cited: Sections 1797.107 and 1797.171, Health and Safety Code. Reference: Sections 1797.171, 1797.173 and 1797.208, Health and Safety Code.

§ 100114. Program Approval.

(a) Program approval or disapproval shall be made in writing by the EMT–II Approving Authority to the requesting training program within a reasonable period of time after receipt of all required documentation. This time period shall not exceed three (3) months.

(b) The EMT–II Approving Authority shall establish the effective date of program approval in writing upon the satisfactory documentation of compliance with all program requirements.

(c) Program approval shall be for two (2) years following the effective date of program approval and may be renewed every two (2) years subject to the procedure for program approval specified in this Chapter.

NOTE: Authority cited: Sections 1797.107 and 1797.171, Health and Safety Code. Reference: Sections 1797.171, 1797.173 and 1797.208, Health and Safety Code.

§ 100115. Application of Regulations to Existing Training Programs.

All EMT–II training programs in operation prior to the effective date of these regulations shall submit evidence of compliance with this Chapter to the EMT–II Approving Authority for the county in which they are located within six (6) months after the effective date of these regulations.

NOTE: Authority cited: Sections 1797.107 and 1797.171, Health and Safety Code. Reference: Section 1797.171, Health and Safety Code.

§ 100116. Program Review and Reporting.

(a) All program materials specified in this Chapter shall be subject to periodic review by the EMT–II Approving Authority.

(b) All programs shall be subject to periodic on–site evaluation by the EMT–II Approving Authority.

(c) Any person or agency conducting a training program shall notify the EMT–II Approving Authority in writing, in advance when possible, and in all cases within thirty (30) days of any change in course content, hours of instruction, course director, program medical director, provisions for hospital clinical experience, or field internship.

NOTE: Authority cited: Sections 1797.107 and 1797.171, Health and Safety Code. Reference: Sections 1797.171 and 1797.208, Health and Safety Code.

§ 100117. Withdrawal of Program Approval.

Noncompliance with any criterion required for program approval, use of any unqualified teaching personnel, or noncompliance with any other applicable provision of this Chapter may result in withdrawal, suspension, or revocation of program approval by the EMT–II Approving Authority subject to the provision that an approved EMT–II training program shall have a reasonable opportunity to comply with this Chapter, but in no case shall the time exceed sixty (60) days from date of written notice of intent to withdraw program approval.

NOTE: Authority cited: Sections 1797.107 and 1797.171, Health and Safety Code. Reference: Sections 1797.171, 1797.208 and 1798.208, Health and Safety Code.

§ 100118. Student Eligibility.

(a) To be eligible to enter an EMT–II training program an individual shall meet the following requirements:

(1) Possess a high school diploma or general education equivalent; and

(2) Possess a current EMT–I A certificate in the State of California or have possessed a valid EMT–I A certificate within the past twelve (12) months; and

(3) Possess a current Basic Cardiac Life Support card according to the standards of the American Heart Association or American Red Cross or have possessed a valid card within the past twelve (12) months; and

(4) Have had at least one (1) year of patient field care experience as a certified EMT–I in the preceding two (2) years.

(b) The EMT–II Approving Authority, in consultation with the EMT–II training program, may also require that individual to demonstrate EMT–I skills and knowledge by satisfactory completion of a written and competency–based skills examination in order to be eligible to enter an EMT–II training program.

(c) EMT–II training programs which include the twenty–four (24) hour ambulance module and required testing as specified in Chapter 2 of this Division, may allow an individual to enter their training program who:

(1) Possesses a current EMT–I NA certificate in the State of California or has possessed a valid EMT–I NA certificate in the State of California within the past twelve (12) months; and

(2) meets the requirements of subsections (a)(1), (a)(3) and (a)(4) of this section.

NOTE: Authority cited: Sections 1797.107 and 1797.171, Health and Safety Code. Reference: Sections 1797.171 and 1797.208, Health and Safety Code.

§ 100119. Required Course Hours.

(a) The total EMT–II training program shall consist of not less than 306 hours. These training hours will be divided into:

(1) A minimum of 210 hours of didactic and skills laboratory;

(2) hospital clinical training and field internship combined shall equal a total of at least 96 hours. Authorization may be given for the utilization of skills in the field on a modular basis. Any hospital clinical or field internship experience specific to that module that is obtained following field authorization may be counted as part of the total hospital clinical and field internship hours.

(b) The trainee shall have a minimum of twenty (20) ALS patient contacts, as defined, during the combined hospital clinical training and field internship. An ALS patient contact shall be defined as the performance, by the trainee, of one or more of the following skills on a patient: administration of intravenous fluids and medications specified in Section 100106(b) of this Chapter, pneumatic antishock trouser inflation, esophageal obturator airway insertion, insertion of intravenous lines to administer isotonic balanced salt solution on patients exhibiting signs of shock, defibrillation of a patient in ventricular fibrillation, cardioversion of an unconscious patient in ventricular tachycardia. The twenty (20) ALS patient contacts shall be distributed among these skills. Each ALS patient contact by an EMT–II shall be documented in writing on a standard form and shall be signed by the training program medical director as verification of the fact that the ALS contact met the criteria set forth in this section. Of these twenty (20) ALS patient contacts, at least five (5) must be obtained during the field internship.

(c) The minimum hours shall not include the following:

(1) Course material designed to teach or test exclusively EMT–I knowledge or skills including CPR.

(2) Examination for student eligibility.

(3) The teaching of any material not prescribed in the Required Course Content Section of this Chapter.

(4) Examination for EMT–II certification.

NOTE: Authority cited: Sections 1797.107 and 1797.171, Health and Safety Code. Reference: Section 1797.171, Health and Safety Code.

§ 100120. Required Course Content.

The content of an EMT–II course shall include instruction adequate to result in the EMT–II trainee being proficient in the following topics and skills listed in the modules below. Course content emphasis shall be on those topics and skills related to advanced life support. Training programs are not required to teach these topics and skills in the modular format or order indicated. However, field internship may be done on a modular basis.

(a) MODULE I: THE EMT–II

(1) Role and responsibilities of the EMT–II.

(2) Emergency medical services system components, including:

(A) Recognition and access;

(B) initiation of the emergency medical services response;

(C) management at the scene;

(D) health professional(s) at the scene;

(E) transportation of emergency personnel, equipment, and the patient;

(F) overview of hospital categorization and designation;

(G) communications overview;

(H) record keeping and evaluation;

(I) multi–casualty incidents and disasters; and

(J) state and local EMS system management.

(3) Laws governing the EMT–II, including:

(A) Medical practice acts affecting EMT–IIs;

(B) comparison of EMT–I, EMT–II and EMT–P in California;

(C) Good Samaritan laws;

(D) duty to act;

(E) consent—implied and informed;

(F) abandonment;

(G) child abuse, elder abuse, or other laws that require reporting;

(H) legal detention;

(I) medical direction;

(J) written medical records; and

(K) local policies and procedures.

(4) Issues concerning the health professional, including:

(A) Medical ethics;

(B) safeguards against communicable diseases;

(C) death and dying; and

(D) special procedures utilized for victims of suspected criminal acts, including preservation of evidence if appropriate.

(b) MODULE II: HUMAN SYSTEMS AND PATIENT ASSESSMENT

(1) Medical terminology including anatomical terms for the EMT–II.

(2) Human systems—basics of anatomy and physiology, including:

(A) The cell—basic structure and function;

(B) tissues;

(C) homeostasis;

(D) the skeleton;

(E) muscles;

(F) body cavities;

(G) circulatory system;

(H) respiratory system;

(I) digestive system;

(J) genitourinary system;

(K) nervous system; and

(L) surface anatomy.

(3) Patient assessment for the EMT–II, including:

(A) Approach to patient assessment;

(B) the patient history, including scene assessment;

(C) physical examination;

(D) prioritization of assessment and management;

(E) reporting format for presenting patient information; and

(F) triage.

(c) MODULE III: SHOCK AND FLUID THERAPY

(1) Fluids and electrolytes, including the basics of:

(A) Body fluids and their distribution; and

(B) electrolytes.

(2) Blood and its composition.

(3) Intravenous solutions available to the EMT–II.

(4) Pathophysiology, specific patient assessment, associated complications, and the prehospital management of shock, including:

(A) Hypovolemic shock;

(B) cardiogenic shock;

(C) distributive shock; and

(D) obstructive shock.

(5) Management skills, including:

(A) Sterile techniques with IV tubing, bottle, and bag;

(B) peripheral intravenous catheter insertion;

(C) withdrawal of blood samples by venipuncture; and

(D) indications, contraindications, associated complications, and use of pneumatic antishock trousers.

(e) MODULE IV: GENERAL PHARMACOLOGY

(1) Terminology.

(2) Weights and measures, including;

(A) Review of the units and usage of the metric system; and

(B) computing drug dosages.

(3) Actions, indications, contraindications, dosages, use, interactions, side effects, and complications of the drugs specified in Section 100106 (b)(6) of this Chapter.

(4) Administration skills, including:

(A) Preparation of medications;

(B) oral administration;

(C) use of pre–filled syringes;

(D) subcutaneous injections;
(E) intramuscular injections;
(F) administration of drugs through IV tubing medication port; and
(G) addition of drugs to IV bottle, bag, or volutrol and rate of infusion.
(e) MODULE V: RESPIRATORY SYSTEM
(1) Anatomy and physiology, including:
(A) Composition of gases in the environment;
(B) exchange of gases in the lung:
(C) regulation of respiration; and
(D) respiration patterns.
(2) Pathophysiology, specific patient assessment, associated complications, and the prehospital management of hypoventilation and other respiratory problems, including:
(A) Dysfunction of spinal cord;
(B) upper and lower airway obstruction;
(C) chest trauma including:
1. mechanism of injury;
2. damage to great vessels and heart;
3. flail chest; and
4. pneumothorax, hemopneumothorax, and tension pneumothorax.
(D) spontaneous pneumothorax;
(E) asthma and chronic obstructive pulmonary disease;
(F) near drowning;
(G) toxic inhalations;
(H) acute pulmonary edema—cardiac and noncardiac;
(I) pulmonary embolism; and
(J) hyperventilation syndrome.
(3) Management skills, including:
(A) Chest ausculation;
(B) oxygen administration and devices;
(C) ventilatory techniques and devices;
(D) suctioning and portable suctioning devices; and
(E) esophageal intubation with esophageal airways; and
(F) basic airway adjunctive devices, including:
1. nasopharyngeal airways;
2. oropharyngeal airways.
(f) MODULE VI: CARDIOVASCULAR SYSTEM
(1) Anatomy and physiology, including:
(A) Cardiac cycle;
(B) cardiac output and blood pressure;
(C) nervous system control;
(D) electromechanical system of the heart; and
(E) cardiac conduction system.
(2) Reading and understanding of a normal EKG rhythm strip, including:
(A) Electrophysiology;
(B) components of the EKG record;
(C) reading an EKG rhythm strip; and
(D) identification of normal sinus rhythm.
(3) Pathophysiology, specific patient assessment, associated complications, and the prehospital management of cardiovascular problems, including:
(A) Coronary artery disease and angina;
(B) acute myocardial infarction;
(C) congestive heart failure;
(D) cardiogenic shock;
(E) syncope;
(F) cardiac arrest;
(G) hypertensive emergencies; and
(H) aortic aneurysm dissection and rupture.
(4) Dysrhythmia recognition and prehospital management, including treatment protocols, for the following:
(A) Sinus bradycardia with hypotension;
(B) third degree heart block;
(C) premature ventricular contractions;
(D) ventricular tachycardia;
(E) ventricular fibrillation;
(F) cardiac standstill (asystole); and
(G) electromechanical dissociation.
(5) Familiarity with these additional dysrhythmia will be included:
(A) Sinus tachycardia;
(B) premature atrial contractions;
(C) atrial flutter;
(D) atrial fibrillation;
(E) supraventricular tachycardia;
(F) first degree heart block;
(G) second degree heart block (Mobitz Type I and Type II);
(H) idioventricular rhythm;
(I) pacemaker rhythms; and
(J) artifact.
(6) Management skills, including:
(A) Application of monitoring electrodes;
(B) defibrillation;
(C) synchronized cardioversion;
(D) cardiopulmonary resuscitation; and
(E) complicated resuscitation situations similar to the mega code used in the American Heart Association's Advanced Cardiac Life Support (ACLS) course but modified for field situations and EMT–II scope of practice.
(g) MODULE VII: CENTRAL NERVOUS SYSTEM
(1) Anatomy and physiology, including brain and spinal cord.
(2) Pathophysiology, specific patient assessment, associated complications, and the prehospital management of central nervous system problems, including:
(A) Head and spinal cord trauma including mechanism of injury; and
(B) altered levels of consciousness.
(3) Management skills, including:
(A) Cervical immobilization;
(B) spinal immobilization;
(C) management of head injuries; and
(D) management of altered levels of consciousness.
(h) MODULE VIII: SOFT TISSUE INJURIES (OMITTED)
(i) MODULE IX: MUSCULOSKELETAL SYSTEM (OMITTED)
(j) MODULE X: MEDICAL EMERGENCIES
(1) Pathophysiology, specific patient assessment, associated complications and the prehospital management of medical emergencies, including:
(A) Diabetic emergencies, including diabetic ketoacidosis and hypoglycemic reactions;
(B) allergic reactions;
(C) alcohol and drug abuse;
(D) poisonings and drug overdose, including protocols for specific substances;
(E) environmental emergencies, including:
1. thermal environment and temperature regulation;
2. heat exposure;
3. cold exposure;
4. burns;
5. hazardous materials exposure, precautions, and management;
6. lightning and other electrical injuries; and
7. poisonous and nonpoisonous bites and stings.
(F) nontraumatic acute abdomen including massive gastrointestinal bleeding;
(G) communicable animal and vector borne diseases including special precautions;
(H) basic understanding of genitourinary problems; and
(I) special considerations for the geriatric patient.
(k) MODULE XI: OBSTETRIC AND GYNECOLOGIC EMERGENCIES
(1) Anatomy and physiology;

(2) Pathophysiology, specific patient assessment, associated complications, and the prehospital management of obstetric and gynecologic emergencies, including:
(A) Vaginal bleeding;
(B) sexual assault to include provision of emotional support and preservation of evidence;
(C) ruptured ectopic pregnancy;
(D) supine hypotension syndrome;
(E) toxemia of pregnancy;
(F) placenta previa;
(G) abruptio placenta;
(H) the stages of labor and normal delivery;
(I) abnormal fetal presentation; and
(J) prolapsed cord.
(3) Pathophysiology, specific patient assessment, associated complications, and the prehospital management of the neonate, including:
(A) Temperature regulation;
(B) resuscitation; and
(C) assessment of the newborn.
(4) Management skills, including:
(A) Assisting with normal and abnormal deliveries; and
(B) neonatal resuscitations.
(*l*) MODULE XII: PEDIATRICS
(1) Anatomy and physiology, including growth and development in relationship to illness and injury;
(2) Special considerations to include:
(A) Approach to the pediatric patient; and
(B) approach to parents.
(3) Signs, symptoms, basic pathophysiology, specific patient assessment, associated complications, and the prehospital management of emergencies especially related to the pediatric age group, including:
(A) Supraglottitis (epiglottitis);
(B) foreign body aspiration;
(C) tracheobronchitis (croup);
(D) near drowning;
(E) sudden infant death syndrome;
(F) child abuse/neglect, sexual abuse, including preservation of evidence;
(G) cardiopulmonary arrest;
(H) seizures in the pediatric age group; and
(I) meningitis.
(4) Management skills, including:
(A) CPR in infants and children;
(B) airway adjuncts utilized for neonates, infants, and children;
(C) cooling measures; and
(D) intravenous techniques utilized for neonates, infants, and children.
(m) MODULE XIII: PSYCHIATRIC EMERGENCIES AND EMOTIONAL CRISIS
(1) Psychological response to illness, injury, death and dying, by:
(A) Patients;
(B) family;
(C) friends;
(D) bystanders;
(E) EMT–IIs; and
(F) other responders.
(2) Management of patients who are a danger to themselves and/or others, including restraining techniques and precautions.
(n) MODULE XIV: EXTRICATION AND RESCUE
(1) Multicasualty incident management including triage.
(2) Disasters, including:
(A) Medical management;
(B) triage;
(C) integration of the EMT–II into disaster response; and
(D) local policies and protocols.
(3) Hazardous materials management.
(o) MODULE XV: TELECOMMUNICATIONS
(1) Basics of an EMS communication system.
(2) Communication regulations and procedures, including:
(A) Communication policies and procedures; and
(B) radio use and reporting skills.

NOTE: Authority cited: Sections 1797.107 and 1797.171, Health and Safety Code. Reference: Sections 1797.171 and 1797.173, Health and Safety Code.

§ 100121. Required Testing.

(a) An approved EMT–II program shall include periodic examinations and final comprehensive competency–based examinations to test the knowledge and skills specified in this Chapter. The final examination shall be a comprehensive examination to test the ability of the individual to assess and manage those conditions listed in Section 100120 of this Chapter. The final examination shall include a written component to test curriculum knowledge and a skills component for proficiency demonstration. Satisfactory performance by preestablished standards developed and/or approved by the EMT–II Approving Authority pursuant to Sections 100107 and 100113 of this Chapter, in these written and skills examinations shall be demonstrated for successful completion of the training program.
(b) Knowledge and skills proficiency shall be demonstrated in at least the following areas in order to successfully complete the training program:
(1) Knowledge of the pathophysiology, specific patient assessment, associated complications, and prehospital management of:
(A) Shock;
(B) respiratory emergencies;
(C) cardiovascular emergencies;
(D) central nervous system emergencies;
(E) obstetric and gynecologic emergencies;
(F) pediatric emergencies; and
(G) medical emergencies.
(2) Knowledge of:
(A) General pharmacology;
(B) medicolegal aspects related to EMT–II services; and
(C) multicasualty and disaster situations.
(3) Knowledge and skills proficiency in:
(A) Patient assessment, including chest auscultation;
(B) peripheral intravenous insertion;
(C) indications, contraindications, associated complications, and use of pneumatic antishock trousers;
(D) administration of medication;
(E) esophageal intubation with esophageal airways;
(F) cardiac monitoring and dysrhythmia recognition;
(G) defibrillation/cardioversion;
(H) telecommunications;
(I) basic life support of neonates, infants, children, and adults (basic CPR cards may be used as proof of competency); and
(J) EMT–I skills including but not limited to spinal immobilization and traction splinting;
(K) complicated resuscitation situations similar to the mega code used in American Heart Association ACLS courses but modified for field situation and EMT–II scope of practice; and
(L) local policies, procedures, and treatment protocols.
(c) The EMT–II Certifying Authority may provide the final examination and skills tests and designate such tests as the measure of competency for certification.

NOTE: Authority cited: Sections 1797.107 and 1797.171, Health and Safety Code. Reference: Sections 1797.171, 1797.208 and 1797.210, Health and Safety Code.

§ 100122. Course Completion Record.

(a) An approved EMT–II training program shall issue a course completion record to each person who has successfully completed the EMT–II training program.
(b) The course completion record shall contain the following:
(1) The name of the individual.

(2) The date of completion.

(3) The following statement: "The individual named on this record has successfully completed an approved EMT–II training program."

(4) The name of the EMT–II Approving Authority.

(5) The signature of the course director.

(6) The name and location of the training program issuing the record.

(7) The following statement in bold print: "This is not an EMT–II certificate."

(c) The name and address of each person receiving a course completion record and the date on which the record was issued shall be reported in writing to the EMT–II Certifying Authority for the county in which the training was given within thirty (30) days of course completion.

NOTE: Authority cited: Sections 1797.107 and 1797.171, Health and Safety Code. Reference: Section 1797.171, Health and Safety Code.

Article 4. Certification

§ 100123. Certification.

(a) In order to be eligible for certification an individual shall:

(1) Possess a current EMT–I A certificate in the State of California or have possessed a valid EMT–I A certificate within the last twelve (12) months.

(2) Have an EMT–II course completion record or other documented proof of successful completion of an approved EMT–II training program.

(3) Pass, by preestablished standards developed and/or approved by the EMT–II Certifying Authority pursuant to this section and Section 100107 of this Chapter, a competency–based written and skills certifying examination which tests the ability to assess and manage the conditions listed in Section 100120 of this Chapter, approved by the EMT–II Certifying Authority.

(4) Be eighteen (18) years of age or older.

(5) Comply with other reasonable requirements, as may be established by the local EMT–II Certifying Authority, such as:

(A) Completion of an application form.

(B) Completion of a statement that the individual is not precluded from certification for reasons defined in Section 1798.200 of the Health and Safety Code.

(C) Pay the established fee.

(D) Furnish a photograph for identification purposes.

(E) Provide proof of affiliation with an approved EMT–II service provider.

(F) Complete a precertification field evaluation.

(b) An individual who possesses a current EMT–II or EMT–P certificate or has possessed a valid EMT–II or an EMT–P certificate in one or more counties in California, shall be eligible for certification upon fulfilling the requirements of subsections (a)(2), (a)(3), (a)(4) and (a)(5) of this section and meets the following requirements.

(1) Provides satisfactory evidence that his/her training included the required course content as specified in Section 100120 of this Chapter.

(2) Successfully completes training and demonstrates competency in any additional prehospital emergency medical care treatment practice(s) required by the local EMT–II Certifying Authority pursuant to subsection 100106 (b)(10) of this Chapter.

(c) An individual who possesses a current EMT–Intermediate or EMT–P certificate, or has possessed a valid EMT–Intermediate or an EMT–P certificate from another state, may be eligible for certification when that individual fulfills the requirements of subsections (a)(2), (a)(3), (a)(4) and (a)(5) of this section and meets the following requirements:

(1) Provide satisfactory evidence that his/her EMT–Intermediate or EMT–P training included in the required course content as specified in Section 100120 of this Chapter. If the individual's training did not include the required course content as specified in Section 100120 of this Chapter, then the individual shall successfully complete training in those topics an skills required to bring an individual to the level of competence required to certification as an EMT–II in California.

(2) Successfully completes training and demonstrates competency in any additional prehospital emergency medical care practice(s) required by the EMT–II Certifying Authority pursuant to subsection 100106(b)(10) of this Chapter.

(d) A physician, registered nurse, or a physician assistant currently licensed by the State of California shall be eligible for participation in the prehospital emergency medical care system as an EMT–II upon passing, by preestablished standards developed and/or approved by the EMT–II Certifying Authority pursuant to Section 100107 of this Chapter, a competency–based written and skills examination that tests knowledge and proficiency in the areas specified in Section 100121 of this Chapter and skills defined by the local EMS Agency. The individual shall also fulfill the requirements of subsection (a)(5) of this section.

(e) The certifying examination shall include, but not be limited to, knowledge proficiency in the areas specified in Section 100121(b) of this Chapter and skills proficiency as defined by the local EMS Agency.

(f) Each EMT–II Certifying Authority shall provide for adequate certification tests to accommodate the eligible individuals requesting certification within their area of jurisdiction, but in no case less than once per year, unless otherwise specified by their EMT–II Approving Authority.

(g) The EMT–II Certifying Authority may waive portions of, or all of, the certifying examination for individuals who are currently certified as an EMT–II or EMT–P in a California county. In such situations, the EMT–II Certifying Authority shall issue a certificate which shall have as its expiration date, a date not to exceed the date on the individual's current certificate.

(h) The EMT–II Certifying Authority shall issue a wallet–sized certificate to eligible individuals who apply for certification and successfully complete the certification requirements. The certificate shall contain the following:

(1) The name of the individual certified.

(2) The certificate number.

(3) The date the certificate was issued.

(4) The date of expiration.

(5) The name and location of the EMT–II Certifying Authority.

(6) The name and signature of the individual authorized to certify, or facsimile of the same.

(7) A statement that the individual named on the card has fulfilled the State of California requirements for certification as an EMT–II and is certified in the county or counties named on this certificate.

(i) Certification as an EMT–II shall be for a maximum of two (2) years from the effective date of certification. The effective date of certification, as used in this Chapter, shall be the date of successful passage of the EMT–II certifying examination and completion of all certification requirements.

(j) An individual currently certified as an EMT–II by the provisions of this section is deemed to be certified as an EMT–I A with no further testing required.

NOTE: Authority cited: Sections 1797.107, 1797.171 and 1797.175, Health and Safety Code. Reference: Sections 1797.171, 1797.175, 1797.177 and 1797.210, Health and Safety Code.

§ 100124. Continuing Education.

In order to maintain certification, an EMT–II shall participate in continuing education as required by the policies of the local EMS Agency. Continuing education for each EMT–II shall include but not be limited to participation in:

(a) An organized field care audit of recorded or written patient care records no less than six (6) times per year in accordance with policies established by the local EMS Agency.

(b) Periodic training sessions or structured clinical experience or a combination thereof in EMT–I (basic) and EMT–II (limited advanced) life support knowledge and skills, including CPR and required field care audits, totaling no less than forty–eight (48) hours every two (2) years.

(c) A monthly demonstration of selected skills proficiency documented by the hospital to which the EMT–II is assigned. The following skills shall be demonstrated on a regular basis:

(1) Patient assessment, communications, and reporting techniques;

(2) use of the esophageal airway;

(3) intravenous infusion technique;

(4) preparation and administration of the drugs in the EMT–II formulary;

(5) the application of pneumatic antishock trousers including understanding of the principles of removal of pneumatic antishock trousers;

(6) cardiac dysrhythmia recognition and interpretation;

(7) cardiac defibrillation and cardioversion; and

(8) review of selected basic life support procedures.

(d) The monthly demonstration of skills may be reduced to a quarterly demonstration of skills if the EMT–II has:

(1) Two (2) complete years of experience as an EMT–II;

(2) eighty (80) ALS runs;

(3) a positive recommendation from the assigned EMT–II's base hospital medical director;

(4) a positive recommendation from the employer EMT–II service provider;

(5) approval of the medical director of the local EMS Agency.

NOTE: Authority cited: Sections 1797.107, 1797.171 and 1797.175, Health and Safety Code. Reference: Sections 1797.171, 1797.175 and 1797.214, Health and Safety Code.

§ 100125. Recertification.

(a) In order to be eligible for recertification an individual shall:

(1) Possess a valid EMT–II certificate which is current.

(2) Apply for recertification with the same EMT–II Certifying Authority which issued the certificate referenced in subsection (a)(1) of this section.

(3) Successfully complete the continuing education requirements of the local EMS Agency.

(4) Satisfy any continuous service requirement prescribed by the policies and procedures of the local EMS Agency.

(5) Demonstrate EMT–II skills and knowledge through the passage by preestablished standards developed and/or approved by the EMT–II Certifying Authority pursuant to Section 100107 and subsection 100123 (a)(3) of this Chapter, a competency–based written and skills examination which has been approved by the EMT–II Certifying Authority, and meets the standards for an EMT–II certifying examination as prescribed in this Chapter.

(b) The effective date of recertification shall be the date of successful passage of the competency–based written and skills examination and completion of all recertification requirements.

(c) Each EMT–II Certifying Authority shall provide for adequate recertification tests to accommodate those certified individuals within the jurisdiction of the EMT–II Certifying Authority, but in no case less than once per year, unless otherwise specified by the EMT–II Approving Authority.

(d) The EMT–II Certifying Authority shall issue a wallet–sized certificate to eligible individuals who apply for recertification and successfully complete the recertification requirements. The certificate shall contain the information specified in subsection 100123(h).

NOTE: Authority cited: Sections 1797.107, 1797.171 and 1797.175, Health and Safety Code. Reference: Sections 1797.171, 1797.175 and 1797.210, Health and Safety Code.

Article 5. Operational Requirements

§ 100126. EMT–II Service Provider.

(a) A local EMS Agency with a limited advanced life support system shall establish policies and procedures for the approval and designation of an EMT–II service provider(s). These policies and procedures shall include provisions requiring an EMT–II to be affiliated with an approved EMT–II service provider in order to perform the scope of practice specified in this Chapter for an EMT–II.

(b) An approved service provider shall:

(1) Provide emergency medical service response on a continuous twenty–four (24) hours per day basis unless otherwise specified by the local EMS Agency, in which case there shall be adequate justification for the exemption (e.g., lifeguards, ski patrol personnel, etc.).

(2) Have and agree to utilize and maintain telecommunications as specified by the local EMS Agency.

(3) Have and agree to maintain a drug and solution inventory, basic and limited advanced life support medical equipment and supplies as specified by the local EMS Agency.

(4) Have a written agreement with the local EMS Agency to participate in the limited advanced life support program and to comply with all applicable State regulations, and local policies and procedures, including a mechanism to assure compliance.

(c) No EMT–II service provider shall advertise itself as providing advanced life support services unless it does, in fact, routinely provide advanced life support services on a continuous twenty–four (24) hours per day basis and meets the requirements of subsection (b) of this section.

(d) No responding unit shall advertise itself as providing advanced life support services unless it does, in fact, provide advanced life support services and meets the requirements of subsection (b) of this section.

(e) The local EMS Agency shall review its agreement with each EMT–II service provider at least every two (2) years. Such agreement may be changed, renewed, cancelled, or otherwise modified at that time.

(f) The local EMS Agency may deny, suspend, or revoke the approval of an EMT–II service provider for failure to comply with applicable policies, procedures, and regulations.

NOTE: Authority cited: Sections 1797.107 and 1797.171, Health and Safety Code. Reference: Sections 1797.171, 1797.178, 1797.180, 1797.204 and 1797.218, Health and Safety Code.

§ 100127. EMT–II Base Hospital.

(a) A local EMS Agency with a limited advanced life support system shall approve and designate selected EMT–II base hospital(s) as the local EMS Agency deems necessary to provide immediate medical direction and supervision of EMT–II personnel in accordance with policies and procedures established by the local EMS Agency.

(b) An approved EMT–II base hospital shall:

(1) Be licensed by the State Department of Health Services as a general acute care hospital.

(2) Have a special permit for Basic or Comprehensive Emergency Medical Service pursuant to the provisions of Division 5.

(3) Have and agree to utilize and maintain two–way telecommunications as specified by the local EMS Agency, capable of direct two–way voice communication with the EMT–II field units assigned to the hospital.

(4) Have a written agreement with the local EMS Agency indicating the commitment of hospital administration, medical staff and emergency department staff to meet the requirements for program participation as specified in this Chapter and by the local EMS Agency's policies and procedures.

(5) Assure that a physician licensed in the State of California is assigned to the emergency department and is available at all times to provide immediate medical direction to the authorized registered nurse or EMT–II personnel.

(6) Assure that nurses giving radio direction to EMT–II personnel are trained and certified as authorized registered nurses by the medical director of the local EMS Agency.

(7) Designate an EMT–II base hospital medical director who shall be a physician on the hospital staff, licensed in the State of California and have experience in emergency medical care. This physician shall be regularly assigned to the emergency department, have experience in and knowledge of base hospital telecommunications and local EMS Agency policies and procedures and shall be responsible for overall medical control and supervision of the EMT–II program within the base hospital's

area of responsibility, including review of patient care records and critique with personnel involved. The EMT–II base hospital medical director shall be responsible for reporting deficiencies in patient care to the local EMS Agency.

(8) Identify an authorized registered nurse with experience in and knowledge of base hospital telecommunications and local EMS Agency policies and procedures as a prehospital liaison to assist the base hospital medical director in the medical control and supervision of the EMT–IIs.

(9) Ensure that a mechanism exists for replacing medical supplies and equipment used by limited advanced life support personnel during treatment of patients according to policies and procedures established by the local EMS Agency.

(10) Ensure a mechanism exists for initial supply and replacement of controlled substances administered by limited advanced life support personnel during treatment of patients according to policies and procedures established by the local EMS Agency.

(11) Provide for continuing education in accordance with the policies and procedures of the local EMS Agency.

(12) Agree to maintain and make available to the local EMS Agency all relevant records for program monitoring and evaluation of the limited advanced life support system.

(c) The local EMS Agency shall review its agreement with each EMT–II base hospital at least every two (2) years. Such agreement may be changed, reviewed, cancelled, or otherwise modified as necessary.

(d) The local EMS Agency may deny, suspend, or revoke the approval of an EMT–II base hospital for failure to comply with any applicable policies, procedures, and regulations.

(e) The local EMS Agency may designate other facilities to assist the base hospital in fulfilling its functions.

NOTE: Authority cited: Sections 1797.107 and 1797.171, Health and Safety Code. Reference: Sections 1797.58, 1797.171, 1797.178, 1798, 1798.2, 1798.100, 1798.102 and 1798.104, Health and Safety Code.

§ 100128. Medical Control.

A local EMS Agency with a limited advanced life support system shall, in conjunction with its medical director, establish and maintain medical control in the following manner:

(a) Prospectively, by assuring the development of written medical policies and procedures, to include:

(1) Readily accessible treatment procedures which encompass the EMT–II scope of practice.

(2) Local medical control policies and procedures as they pertain to the EMT–II base hospitals, EMT–II designated facilities, EMT–II service providers, EMT–II personnel, and the local EMS Agency.

(3) Criteria for initiating specified emergency treatments, which are consistent with this Chapter, for use in the event of communication failure.

(4) Criteria for initiating specified emergency treatments prior to voice contact, which are consistent with this Chapter.

(5) Requirements to be followed when it is determined that the patient is not to be transported to the hospital by ambulance. Such requirements shall include, but not be limited to:

(A) Specific medical conditions where telecommunication is required.

(B) Written reports, if the patient is not transported, shall be reviewed at least on a monthly basis by the base hospital medical director.

(6) Requirements for establishing medical direction by a satellite hospital under the medical control of a base hospital.

(7) Requirements for initiating, completing, reviewing and retaining patient care records as specified in this Chapter. These requirements shall address, but not be limited to:

(A) Initiation of a record for every patient contact.

(B) Responsibilities for record completion.

(C) Responsibilities for record review and evaluation.

(D) Responsibilities for record retention.

(b) Immediately, by providing for direct voice control by an EMT–II base hospital designated physician or authorized registered nurse. Those provisions shall include the following:

(1) An EMT–II shall be assigned to a specific EMT–II base hospital and, unless otherwise specified in this Chapter, shall not initiate limited advanced life support procedures without a direct voice order from that base hospital or a designated facility which contracts with the base hospital. The local EMS Agency may develop policies and procedures which allow for direct voice orders from other EMT–II hospitals under specific conditions.

(2) An EMT–II initiating a limited advanced life support procedure shall attend the patient during transport unless otherwise specified by local EMS Agency procedures.

(c) Retrospectively, by providing for organized evaluation and continuing education for EMT–II personnel. This shall include, but need not be limited to:

(1) Review by a base hospital physician or authorized registered nurse of the appropriateness and adequacy of advanced life support procedures initiated and decisions regarding transport.

(2) Maintenance of records of communications between the service provider(s) and the base hospital through tape recordings and through emergency department communication logs sufficient to allow for medical control and continuing education of the EMT–II.

(3) Organized field care audit(s).

(4) Organized opportunities for continuing education including maintenance and proficiency of skills as specified in this Chapter.

NOTE: Authority cited: Sections 1797.107, 1797.171 and 1797.176, Health and Safety Code. Reference: Sections 1797.90, 1797.171, 1797.202, 1797.220, 1798, 1798.2 and 1798.4, Health and Safety Code.

Article 6. Record Keeping and Fees

§ 100129. Record Keeping.

(a) Each EMT–II Approving Authority shall maintain a record of approved training programs within its jurisdiction and provide the State EMS Authority annually with the names, addresses, and course director of each approved program and the number of currently certified EMT–IIs. The State EMS Authority shall be notified of any changes in the list of approved training programs as such occurs.

(b) Each EMT–II Approving Authority shall maintain a list of current EMT–II program medical directors, course directors and principal instructors.

(c) The State EMS Authority shall maintain a record of approved EMT–II training programs.

(d) Each EMT–II Certifying Authority shall, at a minimum, maintain a list of all EMT–IIs certified or recertified by them in the preceding three (3) years. Each EMT–II Certifying Authority shall maintain a list of all EMT–IIs whose certificate has been suspended or revoked and submit the names to the State EMS Authority as such occurs.

(e) The EMT–II patient care record referenced in 100128(a)(7) shall contain, but not be limited to, the following information:

(1) The date and estimated time of incident.

(2) The time of receipt of the call.

(3) The time of arrival at the scene.

(4) Time of advanced life support intervention.

(5) The location of the incident.

(6) The patient's:

(A) Name;

(B) age;

(C) gender;

(D) estimated weight;

(E) address;

(F) chief complaint; and

(G) vital signs.

(7) Appropriate physical examination.

(8) The emergency care rendered and the patient's response to treatment.

(9) Name of designated physician and/or authorized registered nurse issuing orders.

(10) Patient disposition.
(11) The time of departure from scene.
(12) The time of arrival at receiving hospital (if transported).
(13) The name of receiving facility (if transported).
(14) The name(s) and certificate number(s) of the EMT–II(s).
(15) Signature(s) of EMT–II(s).

NOTE: Authority cited: Sections 1797.107, 1797.171 and 1797.175, Health and Safety Code. Reference: Sections 1797.171, 1797.173, 1797.200, 1797.202, 1797.204 and 1797.208, Health and Safety Code.

§ 100130. Fees.

A local EMS Agency may establish a schedule of fees for EMT–II training program review and approval, EMT–II certification, and EMT–II recertification in an amount sufficient to cover the reasonable cost of complying with the provisions of this Chapter.

NOTE: Authority cited: Sections 1797.107, 1797.171 and 1797.212, Health and Safety Code. Reference: Sections 1797.171 and 1797.212, Health and Safety Code.

Chapter 4. Emergency Medical Technician–Paramedic

Article 1. Definitions

§ 100135. Approved testing Agency.

"Approved Testing Agency" means an agency approved by the EMS Authority to administer the licensure examination.

NOTE: Authority cited: Sections 1797.107, 1797.172 and 1797.185, Health and Safety Code. Reference: Sections 1797.172 and 1797.185, Health and Safety Code.

HISTORY

1. New section filed 7–10–89; operative 8–9–89 (Register 89, No. 29).
2. Amendment of chapter heading and section filed 3–15–99; operative 4–14–99 (Register 99, No. 12).

§ 100136. Emergency Medical Services System Quality Improvement Program.

"Emergency Medical Services System Quality Improvement Program" or "QIP" means methods of evaluation that are composed of structure, process, and outcome evaluations which focus on improvement efforts to identify root causes of problems, intervene to reduce or these causes, and take steps to correct the process and recognize excellence in performance and delivery of care, pursuant to the provisions of Chapter 12 of this Division. This is a model program which will develop over time and is to be tailored to the individual organization's quality improvement needs and is to be based on available resources for the EMS QI program.

NOTE: Authority cited: Sections 1797.107, 1797.172 and 1797.185, Health and Safety Code. Reference: Sections 1797.172 and 1797.204, Health and Safety Code.

HISTORY

1. Amendment filed 7–10–89; operative 8–9–89 (Register 89, No. 29). For prior history, see Register 84, No. 20.
2. Renumbering of former section 100136 to section 100137 and new section 100136 filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
3. Amendment of section heading and section filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100137. Paramedic Training Program Approving Authority.

"Paramedic training program approving authority" means an agency or person authorized by this Chapter to approve an Emergency Medical Technician–Paramedic training program, as follows:

(a) The approving authority for an Emergency Medical Technician–Paramedic training program conducted by a qualified statewide public safety agency shall be the director of the EMS Authority.

(b) The approving authority for any other Emergency Medical Technician–Paramedic training program not included in subsection (a) shall be the local EMS agency which has jurisdiction in the area in which the training program is headquartered.

NOTE: Authority cited: Sections 1797.107 and 1797.172, Health and Safety Code. Reference: Sections 1797.172, 1797.200 and 1797.208, Health and Safety Code.

HISTORY

1. Amendment filed 7–10–89; operative 8–9–89 (Register 89, No. 29). For prior history, see Register 84, No. 20.
2. Amendment filed 11–29–93 as an emergency; operative 12–1–93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3–30–94 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 11–29–93 order transmitted to OAL 3–30–94; disapproved by OAL and order of repeal as to 11–29–93 order filed on 5–11–94 (Register 94, No. 19).
4. 11–29–93 order refiled 5–12–94 as an emergency; operative 5–12–94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–9–94 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 5–12–94 order transmitted to OAL 9–9–94 and filed 10–24–94 (Register 94, No. 43).
6. Editorial correction of HISTORY 1 (Register 95, No. 25).
7. Renumbering of former section 100137 to section 100138 and renumbering of former section 100136 to section 100137, including amendment of section heading and section, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).

§ 100138. Paramedic Licensing Authority.

"Paramedic Licensing Authority" means the director of the EMS Authority.

NOTE: Authority cited: Sections 1797.107, 1797.172 and 1797.194, Health and Safety Code. Reference: Sections 1797.172, 1797.194 and 1797.210, Health and Safety Code.

HISTORY

1. New section filed 5–17–84; effective thirtieth day thereafter (Register 84, No. 20).
2. Editorial correction of History No. 1 (Register 89, No. 29).
3. Renumbering of former section 100138 to section 100139 and renumbering of former section 100137 to section 100138, including amendment of section heading, section and NOTE, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).

§ 100139. Emergency Medical Technician–Paramedic (EMT–P).

"Emergency Medical Technician–Paramedic" or "EMT–P" or "paramedic" or "mobile intensive care paramedic" means an individual who is educated and trained in all elements of prehospital advanced life support; whose scope of practice to provide advanced life support is in accordance with the standards prescribed by this Chapter, and who has a valid license issued pursuant to this Chapter.

NOTE: Authority cited: Sections 1797.107, 1797.172 and 1797.194, Health and Safety Code. Reference: Sections 1797.84, 1797.172 and 1797.194, Health and Safety Code.

HISTORY

1. Repealer and renumbering and amendment of former section 100140 to section 100139 filed 11–29–93 as an emergency; operative 12–1–93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3–30–94 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 92, No. 10.
2. Certificate of Compliance as to 11–29–93 order transmitted to OAL 3–30–94; disapproved by OAL and order of repeal as to 11–29–93 order filed on 5–11–94 (Register 94, No. 19).
3. 11–29–93 order including amendment of section refiled 5–12–94 as an emergency; operative 5–12–94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–9–94 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 94, No. 21).
5. Certificate of Compliance as to 5–12–94 order transmitted to OAL 9–9–94 with amendment and filed 10–24–94 (Register 94, No. 43).
6. Renumbering of former section 100139 to section 100141 and renumbering of former section 100138 to section 100139, including amendment of section and NOTE, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).

§ 100140. Licensure Skills Examination.

"Skills or practical examination" means the National Registry of Emergency Medical Technicians EMT–Paramedic Practical Examination to test the skills of an individual applying for licensure as a paramedic. Examination results shall be valid for application purposes for two (2) years from the date of examination.

NOTE: Authority cited: Sections 1797.107, 1797.172, 1797.175, 1797.185 and 1797.194, Health and Safety Code. Reference: Sections 1797.172, 1797.175, 1797.185, and 1797.194, Health and Safety Code.

HISTORY

1. Renumbering of former section 100140 to section 100139 and renumbering and amendment of former section 100141 to section 100140 filed 11–29–93 as an emergency; operative 12–1–93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3–30–94 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 92, No. 10.
2. Certificate of Compliance as to 11–29–93 order transmitted to OAL 3–30–94; disapproved by OAL and order of repeal as to 11–29–93 order filed on 5–11–94 (Register 94, No. 19).
3. 11–29–93 order refiled 5–12–94 as an emergency; operative 5–12–94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–9–94 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 94, No. 21).
5. Certificate of Compliance as to 5–12–94 order transmitted to OAL 9–9–94 with amendment and filed 10–24–94 (Register 94, No. 43).
6. Renumbering of former section 100140 to section 100142 and renumbering of former section 100142 to section 100140, including amendment of section heading, section and NOTE, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
7. Amendment filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).
8. Amendment filed 6–26–2008; operative 7–26–2008 (Register 2008, No. 26).

§ 100141. Licensure Written Examination.

"Licensure Written Examination" means the National Registry of Emergency Medical Technicians EMT–Paramedic Written Examination to test an individual applying for licensure as a paramedic. Examination results shall be valid for application purposes for two (2) years from date of examination.

NOTE: Authority cited: Sections 1797.107, 1797.172, 1797.175, 1797.185 and 1797.194, Health and Safety Code. Reference: Sections 1797.63, 1797.172, 1797.175, 1797.185, 1797.194 and 1797.210, Health and Safety Code.

HISTORY

1. Renumbering of former section 100141 to section 100140 and renumbering of former section 100141.2 to section 100141 filed 11–29–93 as an emergency; operative 12–1–93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3–30–94 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 89, No. 29.
2. Certificate of Compliance as to 11–29–93 order transmitted to OAL 3–30–94; disapproved by OAL and order of repeal as to 11–29–93 order filed on 5–11–94 (Register 94, No. 19).
3. 11–29–93 order refiled 5–12–94 as an emergency; operative 5–12–94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–9–94 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5–12–94 order transmitted to OAL 9–9–94 and filed 10–24–94 (Register 94, No. 43).
5. Repealer of former section 100141 and renumbering of former section 100139 to section 100141, including amendment of section heading, section and NOTE, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
6. Amendment filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).
7. Amendment filed 6–26–2008; operative 7–26–2008 (Register 2008, No. 26).

§ 100141.2. Quality Assurance.

NOTE: Authority cited: Sections 1797.107, 1797.172 and 1797.185, Health and Safety Code. Reference: Sections 1797.172 and 1797.204, Health and Safety Code.

HISTORY

1. New section filed 11–4–91; operative 1–1–92 (Register 92, No. 10).
2. Renumbering of former section 100141.2 to section 100141 filed 11–29–93 as an emergency; operative 12–1–93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3–30–94 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 11–29–93 order transmitted to OAL 3–30–94; disapproved by OAL and order of repeal as to 11–29–93 order filed on 5–11–94 (Register 94, No. 19).
4. Renumbering of former section 100141.2 to section 100141 refiled 5–12–94 as an emergency; operative 5–12–94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–9–94 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 5–12–94 order transmitted to OAL 9–9–94 and filed 10–24–94 (Register 94, No. 43).

§ 100141.5. State EMT–P Application.

NOTE: Authority cited: Sections 1797.107, 1797.172, 1797.185 and 1797.194, Health and Safety Code. Reference: Sections 1797.63, 1797.172, 1797.185 and 1797.194, Health and Safety Code.

HISTORY

1. New section filed 12–20–89 as an emergency; operative 12–20–89 (Register 89, No. 52). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–19–90.
2. Certificate of Compliance as to 12–20–89 order transmitted to OAL 3–16–90 and filed 4–12–90 (Register 90, No. 18).
3. Amendment filed 11–4–91; operative 1–1–92 (Register 92, No. 10).
4. Amendment of section heading and repealer and new text filed 11–29–93 as an emergency; operative 12–1–93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3–30–94 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11–29–93 order transmitted to OAL 3–30–94; disapproved by OAL and order of repeal as to 11–29–93 order filed on 5–11–94 (Register 94, No. 19).
6. 11–29–93 order refiled 5–12–94 as an emergency; operative 5–12–94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–9–94 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 5–12–94 order transmitted to OAL 9–9–94 and filed 10–24–94 (Register 94, No. 43).
8. Renumbering of former section 100141.5 to section 100143 filed 3–15–99; operative 4–14–99 (Register 99, No. 12).

§ 100142. Local Accreditation.

"Local Accreditation" or "accreditation" or "accreditation to practice" means authorization by the local EMS agency to practice as a paramedic within that jurisdiction. Such authorization indicates that the paramedic has completed the requirements of Section 100165 of this Chapter.

NOTE: Authority cited: Sections 1797.7, 1797.107, 1797.172 and 1797.185, Health and Safety Code. Reference: Sections 1797.172, 1797.178, 1797.185, 1797.194 and 1797.210, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100142 to section 100146, and new section 100142 filed 7–10–89; operative 8–9–89 (Register 89, No. 29). For prior history, see Register 84, No. 20.
2. Amendment filed 11–29–93 as an emergency; operative 12–1–93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3–30–94 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 11–29–93 order transmitted to OAL 3–30–94; disapproved by OAL and order of repeal as to 11–29–93 order filed on 5–11–94 (Register 94, No. 19).
4. 11–29–93 order including amendment of section refiled 5–12–94 as an emergency; operative 5–12–94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–9–94 or emergency language will be repealed by operation of law on the following day.
5. Editorial correction of HISTORY 3 (Register 94, No. 21).
6. Certificate of Compliance as to 5–12–94 order transmitted to OAL 9–9–94 with amendment and filed 10–24–94 (Register 94, No. 43).
7. Renumbering of former section 100142 to section 100140 and renumbering of former section 100140 to section 100142, including amendment of section and NOTE, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
8. Amendment filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100142.5. State Written Examination.

HISTORY

1. New section filed 12–20–89 as an emergency; operative 12–20–89 (Register 89, No. 52). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–19–90.
2. Editorial correction of HISTORY 1. to read "4–19–90" instead of "4–19–89" (Register 90, No. 18).
3. Certificate of Compliance as to 12–20–89 order transmitted to OAL 3–16–90 and filed 4–12–90 (Register 90, No. 18).
4. Repealer filed 11–4–91; operative 1–1–92 (Register 92, No. 10).

§ 100143. State Paramedic Application.

"State Paramedic Application" or "state application" means an application form provided by the EMS Authority to be completed by an individual applying for a license or renewal of license, as identified in Section 100162.

NOTE: Authority cited: Sections 1797.107, 1797.172, 1797.185 and 1797.194, Health and Safety Code. Reference: Sections 1797.63, 1797.172, 1797.185 and 1797.194, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100143 to section 100147, and renumbering and amendment of section 100140 to section 100143 filed 7–10–89; operative 8–9–89 (Register 89, No. 29). For prior history, see Register 84, No. 20.

2. Editorial correction of printing error restoring section (Register 91, No. 32).
3. Amendment filed 11-4-91; operative 1-1-92 (Register 92, No. 10).
4. Editorial correction of NOTE (Register 99, No. 12).
5. Renumbering of former section 100143 to section 100144 and renumbering of former section 100141.5 to section 100143, including amendment of section heading, section and NOTE, filed 3-15-99; operative 4-14-99 (Register 99, No. 12).
6. Editorial correction removing duplicative article 2 heading (Register 99, No. 14).
7. Amendment filed 9-10-2004; operative 10-10-2004 (Register 2004, No. 37).

Article 2. General Provisions

§ 100144. Application of Chapter.

(a) Any local EMS agency that authorizes a paramedic training program or an advanced life-support service that provides services utilizing paramedic personnel as part of an organized EMS system, shall be responsible for approving paramedic training programs, paramedic service providers, paramedic base hospitals, and for developing and enforcing standards, regulations, policies and procedures in accordance with this chapter to provide an EMS system quality improvement program, appropriate medical control, and coordination of paramedic personnel and training program(s) within an EMS system.

(b) No person or organization shall offer a paramedic training program, or hold themselves out as offering a paramedic training program, or hold themselves out as providing advanced life-support services utilizing paramedics for the delivery of emergency medical care unless that person or organization is authorized by the local EMS agency.

(c) A paramedic who is not licensed in California may temporarily perform his/her scope of practice in California on a mutual aid response, on routine patient transports from out of state into California, or during a special event, when approved by the medical director of the local EMS agency, if the following conditions are met:

(1) The paramedic is licensed or certified in another state/country or under the jurisdiction of the federal government.

(2) The paramedic restricts his/her scope of practice to that for which s/he is licensed or certified.

(3) Medical control as specified in Section 1798 of the Health and Safety Code is maintained in accordance with policies and procedures established by the medical director of the local EMS agency.

NOTE: Authority cited: Sections 1797.107, 1797.172 and 1797.195, Health and Safety Code. Reference: Sections 1797.172, 1797.178, 1797.185, 1797.195, 1797.200, 1797.204, 1797.206, 1797.208, 1797.218, 1797.220, 1798 and 1798.100, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100144 to section 100148, and renumbering and amendment of section 100141 to section 100144 filed 7-10-89; operative 8-9-89 (Register 89, No. 29). For prior history, see Register 84, No. 20.
2. Editorial correction of printing error in subsections (b), (b)(3) and (b)(13)(Q) (Register 91, No. 32).
3. Amendment filed 11-4-91; operative 1-1-92 (Register 92, No. 10).
4. Renumbering of former section 100144 to section 100145 and renumbering of former section 100143 to section 100144, including amendment of section and NOTE, filed 3-15-99; operative 4-14-99 (Register 99, No. 12).
5. Amendment of subsection (a) filed 9-10-2004; operative 10-10-2004 (Register 2004, No. 37).

§ 100145. Scope of Practice of Paramedic.

(a) A paramedic may perform any activity identified in the scope of practice of an EMT-I in Chapter 2 of this Division, or any activity identified in the scope of practice of an EMT-II in Chapter 3 of this Division.

(b) A paramedic shall be affiliated with an approved paramedic service provider in order to perform the scope of practice specified in this Chapter.

(c) A paramedic student or a licensed paramedic, as part of an organized EMS system, while caring for patients in a hospital as part of his/her training or continuing education under the direct supervision of a physician, registered nurse, or physician assistant, or while at the scene of a medical emergency or during transport, or during interfacility transfer, or while working in a small and rural hospital pursuant to Section 1797.195 of the Health and Safety Code, may perform the following procedures or administer the following medications when such are approved by the medical director of the local EMS agency and are included in the written policies and procedures of the local EMS agency.

(1) Basic Scope of Practice:

(A) Perform defibrillation and synchronized cardioversion.

(B) Visualize the airway by use of the laryngoscope and remove foreign body(-ies) with forceps.

(C) Perform pulmonary ventilation by use of lower airway multi-lumen adjuncts, the esophageal airway, stomal intubation, and adult oral endotracheal intubation.

(D) Institute intravenous (IV) catheters, saline locks, needles, or other cannulae (IV lines), in peripheral veins and monitor and administer medications through pre-existing vascular access.

(E) Administer intravenous glucose solutions or isotonic balanced salt solutions, including Ringer's lactate solution.

(F) Obtain venous blood samples.

(G) Use glucose measuring device.

(H) Utilize Valsalva maneuver.

(I) Perform needle cricothyroidotomy.

(J) Perform needle thoracostomy.

(K) Monitor thoracostomy tubes.

(L) Monitor and adjust IV solutions containing potassium, equal to or less than 20 mEq/L.

(M) Administer approved medications by the following routes: intravenous, intramuscular, subcutaneous, inhalation, transcutaneous, rectal, sublingual, endotracheal, oral or topical.

(N) Administer, using prepackaged products when available, the following medications:

1. 25% and 50% dextrose;
2. activated charcoal;
3. adenosine;
4. aerosolized or nebulized beta-2 specific bronchodilators;
5. aspirin;
6. atropine sulfate;
7. pralidoxime chloride;
8. calcium chloride;
9. diazepam;
10. diphenhydramine hydrochloride;
11. dopamine hydrochloride;
12. epinephrine;
13. furosemide;
14. glucagon;
15. midazolam;
16. lidocaine hydrochloride;
17. morphine sulfate;
18. naloxone hydrochloride;
19. nitroglycerine preparations, except intravenous, unless permitted under (c)(2)(A) of this section;
20. sodium bicarbonate.

(2) Local Optional Scope of Practice:

(A) Perform or monitor other procedure(s) or administer any other medication(s) determined to be appropriate for paramedic use, in the professional judgement of the medical director of the local EMS agency, that have been approved by the Director of the Emergency Medical Services Services Authority when the paramedic has been trained and tested to demonstrate competence in performing the additional procedures and administering the additional medications.

(B) The medical director of the local EMS agency shall submit Form #EMSA-0391, Revised 03/18/03 to, and obtain approval from, the Director of the EMS Authority in accordance with Section 1797.172(b) of the Health and Safety Code for any procedures or medications proposed

for use pursuant to this subsection prior to implementation of these medication(s) and or procedure(s).

(C) The EMS Authority shall, within fourteen days of receiving the request, notify the medical director of the local EMS agency submitting request Form #EMSA–0391 that the request form has been received, and shall specify what information, if any, is missing.

(D) The Director of the EMS Authority shall approve or disapprove the request for additional procedures and/or medications and notify the local EMS agency medical director of the decision within ninety days of receipt of the completed request.

(E) The Director of the EMS Authority, in consultation with a committee of the local emergency medical services medical directors named by the Emergency Medical Directors Association of California, may suspend or revoke approval of any previously approved additional procedure(s) or medication(s) for cause.

(d) The medical director of the local EMS agency may develop policies and procedures or establish standing orders allowing the paramedic to initiate any paramedic activity in the approved scope of practice without voice contact for medical direction from a physician or mobile intensive care nurse, provided that an EMS System Quality Improvement Program, as specified in Chapter 12 of this Division is in place.

NOTE: Authority cited: Sections 1797.107, 1797.172, 1797.185, 1797.192, 1797.195 and 1797.214, Health and Safety Code. Reference: Sections 1797.172 and 1797.185, Health and Safety Code.

HISTORY

1. Renumbering of former section 100145 to section 100149, and renumbering and amendment of section 100141(b)(14) to section 100145 filed 7–10–89; operative 8–9–89 (Register 89, No. 29). For prior history, see Register 84, No. 20.
2. Editorial correction of printing errors in subsections (b) and (f)(1) (Register 91, No. 32).
3. Amendment filed 11–4–91; operative 1–1–92 (Register 92, No. 10).
4. Renumbering of former section 100145 to section 100146 and renumbering of former section 100144 to section 100145, including amendment of section heading, section and NOTE, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
5. Amendment of subsections (c)(1)(C), (c)(1)(H), (c)(1)(N)7. and (c)(1)(N)20., repealer of subsection (c)(1)(N)21. and amendment of subsections (c)(2)(B)–(D) and (d) filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100146. Paramedic Trial Studies.

A paramedic may perform any prehospital emergency medical care treatment procedures(s) or administer any medication(s) on a trial basis when approved by the medical director of the local EMS agency and the Director of the Emergency Medical Services Authority.

(a) The medical director of the local EMS agency shall review a trial study plan, which at a minimum shall include the following:

(1) A description of the procedure(s) or medication(s) proposed, the medical conditions for which they can be utilized, and the patient population that will benefit.

(2) A compendium of relevant studies and material from the medical literature.

(3) A description of the proposed study design including the scope of the study and method of evaluating the effectiveness of the procedure(s) or medication(s), and expected outcome.

(4) Recommended policies and procedures to be instituted by the local EMS agency regarding the use and medical control of the procedure(s) or medication(s) used in the study.

(5) A description of the training and competency testing required to implement the study.

(b) The medical director of the local EMS agency shall appoint a local medical advisory committee to assist with the evaluation and approval of trial studies. The membership of the committee shall be determined by the medical director of the local EMS agency, but shall include individuals with knowledge and experience in research and the effect of the proposed study on the EMS system.

(c) The medical director of the local EMS agency shall submit the proposed study and send a copy of the proposed trial study plan at least forty–five days prior to the proposed initiation of the study to the Director of the EMS Authority for approval in accordance with the provisions of section 1797.172 of the Health & Safety Code. The EMS Authority shall inform the Commission on EMS of studies being initiated.

(d) The EMS Authority shall notify, within fourteen days of receiving the request, the medical director of the local EMS agency submitting its request for approval of a trial study that the request has been received, and shall specify what information, if any, is missing.

(e) The Director of the EMS Authority shall render the decision to approve or disapprove the trial study within forty–five days of receipt of all materials specified in subsections (a) and (b) of this section.

(f) The medical director of the local EMS agency within eighteen months of initiation of the procedure(s) or medication(s), shall submit a written report to the Commission on EMS which includes at a minimum the progress of the study, number of patients studied, beneficial effects, adverse reactions or complications, appropriate statistical evaluation, and general conclusion.

(g) The Commission on EMS shall review the above report within two meetings and advise the EMS Authority to do one of the following:

(1) Recommend termination of the study if there are adverse effects or no benefit from the study is shown.

(2) Recommend continuation of the study for a maximum of eighteen additional months if potential but inconclusive benefit is shown.

(3) Recommend the procedure or medication be added to the paramedic basic or local optional scope of practice.

(h) If option (g)(2) is selected, the Commission on EMS may advise continuation of the study as structured or alteration of the study to increase the validity of the results.

(i) At the end of the additional eighteen month period, a final report shall be submitted to the Commission on EMS with the same format as described in (f) above.

(j) The Commission on EMS shall review the final report and advise the EMS Authority to do one of the following:

(1) Recommend termination or further extension of the study.

(2) Recommend the procedure or medication be added to the paramedic basic or local optional scope of practice.

(k) The EMS Authority may require the trial study(ies) to cease after thirty–six months.

NOTE: Authority cited: Sections 1797.107 and 1797.172, Health and Safety Code. Reference: Sections 1797.3, 1797.172 and 1797.221, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100146 to section 100150, and renumbering and amendment of section 100142 to section 100146 filed 7–10–89; operative 8–9–89 (Register 89, No. 29). For prior history, see Register 84, No. 20.
2. Amendment of subsections (b) and (d) filed 11–4–91; operative 1–1–92 (Register 92, No. 10).
3. Renumbering of former section 100146 to section 100147 and renumbering of former section 100145 to section 100146, including amendment of section heading and section, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
4. Amendment of subsections (c)–(g), (g)(2), (i) and (k) filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100147. Responsibility of the Local EMS Agency.

The local EMS agency that authorizes an advance life support program shall establish policies and procedures approved by the medical director of the local EMS agency that shall include:

(a) Approval, denial, revocation of approval, suspension, and monitoring of training programs, base hospitals or alternative base stations, and paramedic service providers.

(b) Assurance of compliance with provisions of this Chapter by the paramedic program and the EMS system.

(c) Submission to the State EMS Authority, as changes occur, of the following information on the approved paramedic training programs:

(1) Name of program director and/or program contact;

(2) Address, phone number, and facsimile number;

(3) Date of approval, date classes will initially begin, and date of expiration.

(d) Development or approval, implementation and enforcement of policies for medical control, medical accountability, and a QIP of the paramedic services, including:

(1) Treatment and triage protocols.

(2) Patient care record and reporting requirements.

(3) Medical care audit system.

(4) Role and responsibility of the base hospital and paramedic service provider.

(e) System data collection and evaluation.

NOTE: Authority cited: Sections 1797.107 and 1797.172, Health and Safety Code. Reference: Sections 1797.172, 1797.178, 1797.200, 1797.202, 1797.204, 1797.208, 1797.220, 1798 and 1798.100, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former Section 100147 to Section 100151, and renumbering and amendment of Section 100143 to Section 100147 filed 7–10–89; operative 8–9–89 (Register 89, No. 29). For prior history, see Register 84, No. 20.
2. Renumbering of former section 100147 to section 100148 and renumbering of former section 100146 to section 100147, including amendment of section, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
3. Amendment of subsections (a) and (c)(3) filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

Article 3. Program Requirements for Paramedic Training Programs

§ 100148. Approved Training Programs.

(a) The purpose of a paramedic training program shall be to prepare individuals to render prehospital advanced life support within an organized EMS system.

(b) By January 1, 2004, all paramedic training programs approved by a paramedic training program approving authority prior to January 1, 2000 shall be accredited and maintain current accreditation by the Commission on Accreditation of Allied Health Education Programs (CAAHEP), upon the recommendation of the Committee on Accreditation of Educational Programs for the Emergency Medical Services Professions (CoAEMSP), in order to continue to operate as an approved paramedic training program.

(c) All paramedic training programs approved by a paramedic training program approving authority January 1, 2000 or thereafter shall submit their application, fee, and self study to CoAEMSP for accreditation within 12 months of the start up of classes and receive and maintain CAAHEP accreditation no later than two years from the date of application to CoAEMSP for accreditation in order to continue to operate as an approved paramedic training program.

(d) Paramedic training programs approved according to the provisions of this Chapter shall provide the following information to all their paramedic training program applicants prior to the applicants enrollment in the paramedic training program:

(1) The date by which the paramedic training program must submit their application and self study for initial accreditation or their application for accreditation renewal to CoAEMSP.

(2) The date by which the paramedic training program must be initially accredited or have their accreditation renewed by CAAHEP.

(3) Failure of the paramedic training program to submit their application and self study or their accreditation renewal to CoAEMSP by the date specified will result in closure of the paramedic training program by their respective paramedic training program approving authority, unless the paramedic training program approving authority has approved a plan for meeting compliance as provided in Section 100156 of this Chapter. When a paramedic training program approval is revoked under this provision, the paramedic training program course director must demonstrate to the satisfaction of their respective paramedic training program approving authority that the deficiency for which the paramedic training program approval was revoked has been rectified before submitting a new application for paramedic training program approval.

(4) Failure of the paramedic training program to obtain or maintain CAAHEP accreditation by the required date will result in closure of the paramedic training program by their respective paramedic training program approving authority, unless the paramedic training program approving authority has approved a plan for meeting compliance as provided in Section 100156 of this Chapter. When a paramedic training program approval has been revoked under this provision, the paramedic training program course director must demonstrate to the satisfaction of their respective paramedic training program approving authority that the deficiency for which the paramedic training program approval was revoked has been rectified before submitting a new application for paramedic training program approval.

(5) Students graduating from a paramedic training program that fails to apply for accreditation with, receive accreditation from, or maintain accreditation with, CAAHEP by the dates required will not be eligible for state licensure as a paramedic.

(e) Paramedic training programs shall submit to their respective paramedic training program approving authority all documents submitted to, and received from, CoAEMSP and CAAHEP for accreditation, including but not limited to, the initial application and self study for accreditation and the documents required for maintaining accreditation.

(f) Paramedic training programs shall submit to the EMS Authority the date their initial application was submitted to CoAEMSP and copies of documentation from CoAEMSP and/or CAAHEP verifying accreditation.

(g) Paramedic training program approving authorities shall revoke approval, in accordance with Section 100156 of this Chapter, of any paramedic training program which fails to comply with subsections (b) through (e) of this Section.

(h) Approved paramedic training programs shall participate in the emergency medical services system QIP of their respective paramedic training program approving authority. In addition, an approved paramedic training program, which is conducting a paramedic training program outside the jurisdiction of their approving authority, shall also agree to participate in the QIP of the local EMS agency which has jurisdiction where the paramedic training program is being conducted.

(i) Eligibility for program approval shall be limited to the following institutions:

(1) Accredited universities, colleges, including junior and community colleges, and private post–secondary schools as approved by the State of California, Department of Consumer Affairs, Bureau of Private Postsecondary and Vocational Education.

(2) Medical training units of a branch of the Armed Forces or Coast Guard of the United States.

(3) Licensed general acute care hospitals which meet the following criteria:

(A) Hold a special permit to operate a basic or comprehensive emergency medical service pursuant to the provisions of Division 5;

(B) provide continuing education to other health care professionals; and

(C) are accredited by the Joint Commission on the Accreditation of Healthcare Organizations or the Healthcare Facilities Accreditation Program of the American Osteopathic Association.

(4) Agencies of government.

NOTE: Authority cited: Sections 1797.107, 1797.172 and 1797.173, Health and Safety Code. Reference: Sections 1797.172, 1797.173, 1797.208 and 1797.213, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100148 to section 100152, and renumbering an amendment of section 100144 to section 100148 filed 7–10–89; operative 8–9–89 (Register 89, No. 29). For prior history, see Register 84, No. 20.
2. Editorial correction of printing error in subsection (b) (Register 91, No. 32).
3. Amendment of subsections (b) and (c)(3) filed 11–4–91; operative 1–1–92 (Register 92, No. 10).
4. Editorial correction of subsection (c)(3) (Register 99, No. 12).
5. Amendment of article heading, renumbering of former section 100148 to section 100149 and renumbering of former section 100147 to section 100148, in-

cluding amendment of section, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).

6. Amendment filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100149. Teaching Staff.

(a) Each program shall have an approved program medical director who shall be a physician currently licensed in the State of California, who has two years experience in prehospital care in the last five years, and who is qualified by education or experience in methods of instruction. Duties of the program medical director shall include, but not be limited to:

(1) Review and approve educational content of the program curriculum, including training objectives for the clinical and field instruction, to certify its ongoing appropriateness and medical accuracy.

(2) Review and approve the quality of medical instruction, supervision, and evaluation of the students in all areas of the program.

(3) Approval of provision for hospital clinical and field internship experiences.

(4) Approval of principal instructor(s).

(b) Each program shall have an approved course director who shall be licensed in California as a physician, a registered nurse who has a baccalaureate degree or a paramedic who has a baccalaureate degree, or shall be an individual who holds a baccalaureate degree in a related health field or in education. The course director shall be qualified by education and experience in methods, materials, and evaluation of instruction, and shall have a minimum of one year experience in an administrative or management level position and have a minimum of three years academic or clinical experience in prehospital care education within the last five years. Duties of the course director shall include, but not be limited to:

(1) Administration, organization and supervision of the educational program.

(2) In coordination with the program medical director, approve the principal instructor, teaching assistants, field and hospital clinical preceptors, clinical and internship assignments, and coordinate the development of curriculum, including instructional objectives, and approve all methods of evaluation.

(3) Ensure training program compliance with this chapter and other related laws.

(4) Sign all course completion records.

(5) Ensure that the preceptor(s) are trained according to the curriculum in subsection (e)(4).

(c) Each program shall have a principal instructor(s), who may also be the program medical director or course director if the qualifications in subsections (a) and (b) are met, who shall:

(1) Be a physician, registered nurse, physician assistant, or paramedic, currently certified or licensed in the State of California.

(2) Have two years experience in advanced life support prehospital care and be knowledgeable in the course content of the U.S. Department of Transportation Emergency Medical Technician–Paramedic National Standard Curriculum HS 808 862 March 1999; and

(3) Have six years experience in an allied health field or related technology and an associate degree or two years experience in an allied health field or related technology and a baccalaureate degree.

(4) Be responsible for areas including, but not limited to, curriculum development, course coordination, and instruction.

(5) Be qualified by education and experience in methods, materials, and evaluation of instruction, which shall be documented by at least forty hours of instruction in teaching methodology. Following, but not limited to, are examples of courses that meet the required instruction in teaching methodology:

a. California State Fire Marshal (CSFM) "Fire Instructor 1A and 1B",

b. National Fire Academy (NFA) "Fire Service Instructional Methodolgy" course, and

c. A course that meets the U. S. Department of Transportation/National Highway Traffic Safety Administration 2002 Guidelines for Educating EMS Instructors, such as the National Association of EMS Educators' EMS Educator Course.

(d) Each training program may have a teaching assistant(s) who shall be an individual(s) qualified by training and experience to assist with teaching of the course. A teaching assistant shall be supervised by a principal instructor, the course director and/or the program medical director.

(e) Each program shall have a field preceptor(s) who shall:

(1) Be a certified or licensed paramedic; and

(2) Be working in the field as a certified or licensed paramedic for the last two years; and

(3) Be under the supervision of a principal instructor, the course director and/or the program medical director.

(4) Have completed field preceptor training approved by the local EMS agency and/or comply with the field preceptor guidelines approved by the local EMS agency. Training shall include a curriculum that will result in the preceptor being competent to evaluate the paramedic student during the internship phase of the training program, and how to do the following in cooperation with the paramedic training program:

(A) Conduct a daily field evaluation of students.

(B) Conduct cumulative and final field evaluations of all students.

(C) Rate students for evaluation using written field criteria.

(D) Identify advanced life support contacts and requirements for graduation.

(E) Identify the importance of documenting student performance.

(F) Review field preceptor requirements contained in this Chapter.

(G) Assess student behaviors using cognitive, psychomotor, and affective domains.

(H) Create a positive and supportive learning environment.

(I) Measure students against the standard of entry level paramedics.

(J) Identify appropriate student progress.

(K) Counsel the student who is not progressing.

(L) Identify training program support services available to the student and the preceptor.

(M) Provide guidance and applicable procedures for dealing with an injured student or student who has had an exposure to illness, communicable disease or hazardous material.

(f) Each program shall have a hospital clinical preceptor(s) who shall:

(1) Be a physician, registered nurse or physician assistant currently licensed in the State of California.

(2) Have worked in emergency medical care for the last two years.

(3) Be under the supervision of a principal instructor, the course director, and/or the program medical director.

(4) Receive instruction in evaluating paramedic students in the clinical setting. Means of instruction may include, but need not be limited to, educational brochures, orientation, training programs, or training videos, and shall include how to do the following in cooperation with the paramedic training program:

(A) Evaluate a student's ability to safely administer medications and perform assessments.

(B) Document a student's performance.

(C) Review clinical precaptor requirements contained in this Chapter.

(D) Assess student behaviors using cognitive, psychomotor, and affective domains.

(E) Create a positive and supportive learning environment.

(F) Identify appropriate student progress.

(G) Counsel the student who is not progressing.

(H) Provide guidance and applicable procedures for dealing with an injured student or student who has had an exposure to illness, communicable disease or hazardous material.

NOTE: Authority cited: Sections 1797.107 and 1797.172, Health and Safety Code. Reference: Sections 1797.172 and 1797.208, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former Section 100149 to Section 100153, and renumbering of Section 100145 to Section 100149 filed 7–10–89; operative 8–9–89 (Register 89, No. 29). For prior history, see Register 84, No. 20.

2. Renumbering of former section 100149 to section 100150 and renumbering of former section 100148 to section 100149, including amendment of section, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).

3. Amendment filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100150. Didactic and Skills Laboratory.

An approved paramedic training program shall assure that no more than six students are assigned to one instructor/teaching assistant during skills practice/laboratory.

NOTE: Authority cited: Sections 1797.107, 1797.172 and 1797.173, Health and Safety Code. Reference: Sections 1797.172, 1797.173 and 1797.208, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100150 to section 100154, and renumbering and amendment of section 100146 to section 100150 filed 7–10–89; operative 8–9–89 (Register 89, No. 29). For prior history, see Register 84, No. 20.
2. Amendment of subsection (a) filed 11–4–91; operative 1–1–92 (Register 92, No. 10).
3. Renumbering of former section 100150 to section 100151 and renumbering of former section 100149 to section 100150, including amendment of section, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
4. Amendment filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100151. Hospital Clinical Education and Training for Paramedic.

(a) An approved paramedic training program shall provide for and monitor a supervised clinical experience at a hospital(s) that is licensed as a general acute care hospital and holds a permit to operate a basic or comprehensive emergency medical service. The clinical setting may be expanded to include areas commensurate with the skills experience needed. Such settings may include surgicenters, clinics, jails or any other areas deemed appropriate by the local EMS agency. The maximum number of hours in the expanded clinical setting shall not exceed forty hours of the total clinical hours specified in Section 100158(a)(2).

(b) An approved paramedic training program shall not enroll any more students than the training program can commit to providing a clinical internship to begin no later than thirty days after a student's completion of the didactic and skills instruction portion of the training program. The paramedic training program course director and a student may mutually agree to a later date for the clinical internship to begin in the event of special circumstances (e.g., student or preceptor illness or injury, student's military duty, etc.).

(c) Training programs in nonhospital institutions shall enter into a written agreement(s) with a licensed general acute care hospital(s) that holds a permit to operate a basic or comprehensive emergency medical service for the purpose of providing this supervised clinical experience.

(d) Paramedic clinical training hospital(s) and other expanded settings shall provide clinical experience, supervised by a clinical preceptor(s). The clinical preceptor may assign the student to another health professional for selected clinical experience. No more than two students shall be assigned to one preceptor or health professional during the supervised clinical experience at any one time. Clinical experience shall be monitored by the training program staff and shall include direct patient care responsibilities, which may include the administration of any additional medications, approved by the local EMS agency medical director and the director of the EMS Authority, to result in competency. Clinical assignments shall include, but are not to be limited to, emergency, cardiac, surgical, obstetric, and pediatric patients.

NOTE: Authority cited: Sections 1797.107, 1797.172 and 1797.173, Health and Safety Code. Reference: Sections 1797.172, 1797.173 and 1797.208, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former Section 100151 to Section 100155, and renumbering and amendment of Section 100147 to Section 100151 filed 7–10–89; operative 8–9–89 (Register 89, No. 29). For prior history, see Register 84, No. 20.
2. Renumbering of former section 100151 to section 100152 and renumbering of former section 100150 to section 100151, including amendment of section heading and section, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
3. Amendment of subsection (a), new subsection (b), subsection relettering and amendment of newly designated subsection (d) filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100152. Field Internship.

(a) A field internship shall provide emergency medical care experience supervised at all times by an authorized field preceptor to result in the paramedic student being competent to provide the medical procedures, techniques, and medications specified in Section 100145, in the prehospital emergency setting within an organized EMS system.

(b) An approved paramedic training program shall enter into a written agreement with a paramedic service provider(s) to provide for field internship, as well as for a field preceptor(s) to directly supervise, instruct, and evaluate the students. The assignment of a student to a field preceptor shall be a collaborative effort between the training program and the provider agency. If the paramedic service provider is located outside the jurisdiction of the paramedic training program approving authority, then the training program shall do the following:

(1) in collaboration with the local EMS agency in which the field internship will occur, ensure that the student has been oriented to that local EMS system, including local policies and procedures and treatment protocols,

(2) contact the local EMS agency where the paramedic service provider is located and report to that local EMS agency the name of the paramedic intern in their jurisdiction, the name of the EMS provider, and the name of the preceptor. The paramedic intern shall be under the medical control of the medical director of the local EMS agency in which the internship occurs.

(c) The training program shall be responsible for ensuring that the filed preceptor has the experience and training as required in Section 100149(e)(1)–(4).

(d) The paramedic training program shall not enroll any more students than the training program can commit to providing a filed internship to begin no later than ninety days after a student's completion of the hospital clinical education and training portion of the training program. The training program director and a student may mutually agree to a later date for the filed internship to begin in the event of special circumstances (e.g., student or preceptor illness or injury, student's military duty, etc.).

(e) For at least half of the ALS patient contacts specified in Section 100158(b), the paramedic student shall be required to provide the full continuum of care of the patient beginning with the initial contact with the patient upon arrival at the scene through release of the patient to a receiving hospital or medical care facility.

(f) All interns shall be continuously monitored by the training program, in collaboration with the assigned field preceptor, regardless of the location of the internship, as described in written agreements between the training program and the internship provider. The training program shall document a student's progress, based on the assigned field preceptor's input, and identify specific weaknesses of the student, if any, and/or problems encountered by, or with, the student. Documentation of the student's progress, including any identified weaknesses or problems, shall be provided to the student at least twice during the student's field internship.

(g) No more than one emergency medical technician trainee, of any level, shall be assigned to a response vehicle at any one time during the paramedic student's field internship.

NOTE: Authority cited: Sections 1797.107, 1797.172 and 1797.173, Health and Safety Code. Reference: Sections 1797.172, 1797.173 and 1797.208, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100152 to section 100156, and renumbering and amendment of section 100148 to section 100152 filed 7–10–89; operative 8–9–89 (Register 89, No. 29). For prior history, see Register 84, No. 20.
2. Amendment of subsections (b)(1) and (b)(2) filed 11–4–91; operative 1–1–92 (Register 92, No. 10).
3. Renumbering of former section 100152 to section 100153 and renumbering of former section 100151 to section 100152, including amendment of section, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
4. Amendment filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100153. Procedure for Paramedic Training Program Approval.

(a) Eligible training institutions shall submit a written request for program approval to the paramedic training program approving authority. A paramedic training program approving authority may deem a paramedic training program approved that has been accredited by the CAAHEP upon submission of proof of such accreditation, without requiring the paramedic training program to submit for review the information required in subsections (b) and (c) of this section.

(b) The paramedic training program approving authority shall receive and review the following prior to program approval:

(1) A statement verifying that the course content is equivalent to the U. S. Department of Transportation (DOT) Emergency Medical Technician–Paramedic National Standard Curriculum HS 808 862 March 1999.

(2) An outline of course objectives.

(3) Performance objectives for each skill.

(4) The names and qualifications of the training program course director, program medical director, and principal instructors.

(5) Provisions for supervised hospital clinical training including student evaluation criteria and standardized forms for evaluating paramedic students; and monitoring of preceptors by the training program.

(6) Provisions for supervised field internship including student evaluation criteria and standardized forms for evaluating paramedic students; and monitoring of preceptors by the training program.

(7) The location at which the courses are to be offered and their proposed dates.

(8) Written agreements between the paramedic training program and a hospital(s) and other clinical setting(s), if applicable, for student placement for clinical education and training.

(9) Written contracts or agreements between the paramedic training program and a provider agency(ies) for student placement for filed internship training.

(c) The paramedic training program approving authority shall review the following prior to program approval:

(1) Samples of written and skills examinations administered by the training program for periodic testing.

(2) A final written examination administered by the training program.

(3) Evidence that the program provides adequate facilities, equipment, examination security, and student record keeping.

(d) The paramedic training program approving authority shall submit to the State EMS Authority an outline of program objectives and eligibility on each paramedic training program being proposed for approval in order to allow the State EMS Authority to make the determination required by section 1797.173 of the Health and Safety Code. Upon request by the State EMS Authority, any or all materials submitted by the paramedic training program shall be submitted to the State EMS Authority.

NOTE: Authority cited: Sections 1797.107 and 1797.172, Health and Safety Code. Reference: Sections 1797.172, 1797.173 and 1797.208, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former Section 100153 to Section 100157, and renumbering and amendment of Section 100149 to Section 100153 filed 7–10–89; operative 8–9–89 (Register 89, No. 29). For prior history, see Register 84, No. 20.
2. Renumbering of former section 100153 to section 100154 and renumbering of former section 100152 to section 100153, including amendment of section, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
3. Amendment of section heading and section filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100154. Paramedic Training Program Approval/Disapproval.

(a) The paramedic training program approving authority shall, within thirty working days of receiving a request for training program approval, notify the requesting training program that the request has been received, and shall specify what information, if any, is missing.

(b) Paramedic training program approval or disapproval shall be made in writing by the paramedic training program approving authority to the requesting training program after receipt of all required documentation. This time period shall not exceed three months.

(c) The paramedic training program approving authority shall establish the effective date of program approval in writing upon the satisfactory documentation of compliance with all program requirements.

(d) Paramedic training program approval shall be for four years following the effective date of approval and may be renewed every four years subject to the procedure for program approval specified in this chapter.

NOTE: Authority cited: Sections 1797.107 and 1797.172, Health and Safety Code. Reference: Sections 1797.172, 1797.173 and 1797.208, Health and Safety Code; and Section 15376, Government Code.

HISTORY

1. Renumbering and amendment of former section 100154 to section 100158, and renumbering and amendment of section 100150 to section 100154 filed 7–10–89; operative 8–9–89 (Register 89, No. 29). For prior history, see Register 84, No. 20.
2. Amendment filed 11–4–91; operative 1–1–92 (Register 92, No. 10).
3. Renumbering of former section 100154 to section 100155 and renumbering of former section 100153 to section 100154, including amendment of section heading, section and NOTE, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
4. Amendment of section heading and section filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100155. Program Review and Reporting.

(a) All program materials specified in this Chapter shall be subject to periodic review by the paramedic training program approving authority and may also be reviewed upon request by the EMS Authority.

(b) All programs shall be subject to periodic on–site evaluation by the paramedic approving authority and may also be evaluated by the EMS Authority.

(c) Any person or agency conducting a training program shall notify the paramedic training program approving authority in writing, in advance when possible, and in all cases within thirty days of any change in course objectives, hours of instruction, course director, program medical director, principal instructor, provisions for hospital clinical experience, or field internship.

NOTE: Authority cited: Sections 1797.107 and 1797.172, Health and Safety Code. Reference: Sections 1797.172 and 1797.208, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100155 to section 100159, and renumbering and amendment of section 100151 to section 100155 filed 7–10–89; operative 8–9–89 (Register 89, No. 29). For prior history, see Register 84, No. 20.
2. Amendment of subsection (c) filed 11–4–91; operative 1–1–92 (Register 92, No. 10).
3. Renumbering of former section 100155 to section 100156 and renumbering of former section 100154 to section 100155, including amendment of section heading and section, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
4. Repealer of former section 100155 and renumbering and amendment of former section 100156 to section 100155 filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100156. Denial or Withdrawal of Program Approval.

(a) Noncompliance with any criterion required for program approval, use of any unqualified teaching personnel, or noncompliance with any other applicable provision of this Chapter may result in denial, probation, suspension or revocation of program approval by the paramedic training program approving authority. Notification of noncompliance and action to place on probation, suspend or revoke shall be done as follows:

(1) A paramedic training program approving authority shall notify the approved paramedic training program course director in writing, by certified mail, of the provisions of this Chapter with which the paramedic training program is not in compliance.

(2) Within fifteen days of receipt of the notification of noncompliance, the approved paramedic training program shall submit in writing, by certified mail, to the paramedic training program approving authority one of the following:

(A) Evidence of compliance with the provisions of this Chapter, or

(B) A plan for meeting compliance with the provisions of this Chapter within sixty days from the day of receipt of the notification of noncompliance.

(3) Within fifteen days of receipt of the response from the approved paramedic training program, or within thirty days from the mailing date of the noncompliance notification if no response is received from the approved paramedic training program, the paramedic training program approving authority shall notify the EMS Authority and the approved paramedic training program in writing, by certified mail, of the decision to accept the evidence of compliance, accept the plan for meeting compliance, place on probation, suspend or revoke the paramedic training program approval.

(4) If the paramedic training program approving authority decides to suspend or revoke the paramedic training program approval, the notification specified in subsection (a)(3) of this section shall include the beginning and ending dates of the probation or suspension and the terms and conditions for lifting of the probation or suspension or the effective date of the revocation, which may not be less than sixty days from the date of the paramedic training program approving authority's letter of decision to the EMS Authority and the paramedic training program.

NOTE: Authority cited: Sections 1797.107 and 1797.172, Health and Safety Code. Reference: Sections 1797.172, 1797.208 and 1798.202, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former Section 100156 to Section 100160, and renumbering and amendment of Section 100152 to Section 100156 filed 7–10–89; operative 8–9–89 (Register 89, No. 29). For prior history, see Register 84, No. 20.
2. Renumbering of former section 100156 to section 100157 and renumbering of former section 100155 to section 100156 filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
3. Renumbering of former section 100156 to section 100155 and renumbering and amendment of former section 100157 to section 100156 filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100157. Student Eligibility.

(a) To be eligible to enter a paramedic training program an individual shall meet the following requirements:

(1) Possess a high school diploma or general education equivalent; and

(2) possess a current basic cardiac life support card according to the Guidelines 2000 for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care at the healthcare provider level; and

(3) possess a current EMT–I certificate or NREMT–Basic registration; or

(4) possess a current EMT–II certificate in the State of California; or

(5) be currently registered as an EMT–Intermediate with the National Registry of Emergency Medical Technicians.

NOTE: Authority cited: Sections 1797.107 and 1797.172, Health and Safety Code. Reference: Sections 1797.172 and 1797.208, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former Section 100157 to Section 100161, and renumbering and amendment of Section 100153 to Section 100157 filed 7–10–89; operative 8–9–89 (Register 89, No. 29). For prior history, see Register 84, No. 20.
2. Renumbering of former section 100157 to section 100158 and renumbering of former section 100156 to section 100157 filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
3. Renumbering of former section 100157 to section 100156 and renumbering and amendment of former section 100158 to section 100157 filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100158. Required Course Hours.

(a) The total training program shall consist of not less than 1090 hours. These training hours shall be divided into:

(1) A minimum of 450 hours of didactic instruction and skills laboratories;

(2) The hospital clinical training shall consist of no less than 160 hours and the field internship shall consist of no less than 480 hours.

(b) The student shall have a minimum of forty advanced life support (ALS) patient contacts during the field internship as specified in Section 100152. An ALS patient contact shall be defined as the student performance of one or more ALS skills, except cardiac monitoring and basic cardiopulmonary resuscitation (CPR), on a patient.

(c) The minimum hours shall not include the following:

(1) Course material designed to teach or test exclusively EMT–I knowledge or skills including CPR.

(2) Examination for student eligibility.

(3) The teaching of any material not prescribed in section 100159 of this Chapter.

(4) Examination for paramedic licensure.

NOTE: Authority cited: Sections 1797.107 and 1797.172, Health and Safety Code. Reference: Section 1797.172, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100158 to section 100162, and renumbering and amendment of section 100154 to section 100158 filed 7–10–89; operative 8–9–89 (Register 89, No. 29). For prior history see Register 84, No. 20.
2. Amendment of subsections (a), (a)(1) and (a)(2) filed 11–4–91; operative 1–1–92 (Register 92, No. 10).
3. Renumbering of former section 100158 to section 100159 and renumbering of former section 100157 to section 100158 filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
4. Renumbering of former section 100158 to section 100157 and renumbering and amendment of former section 100159 to section 100158 filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100159. Required Course Content.

The content of an EMT–P course shall meet the objectives contained in the U.S. Department of Transportation Emergency Medical Technician–Paramedic National Standard Curriculum DOT HS 808 862 March 1999, including Appendix E, incorporated herein by reference, and shall include adequate instruction to result in the paramedic being competent in the paramedic basic scope of practice specified in Section 100145 of this Chapter. The U.S. Department of Transportation Emergency Medical Technician–Paramedic National Standard Curriculum DOT HS 808 862 March 1999, including Appendix E, can be accessed through the U.S. Department of Transportation, National Highway Traffic Safety Administration website www.nhtsa.dot.gov/people/injury/ems/products.htm.

NOTE: Authority cited: Sections 1797.107 and 1797.172, Health and Safety Code. Reference: Sections 1797.172, 1797.173, 1797.185 and 1797.213, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100159 to section 100164, and renumbering and amendment of section 100155 to section 100159 filed 7–10–89; operative 8–9–89 (Register 89, No. 29). For prior history, see Register 84, No. 20.
2. Editorial correction of printing errors in subsections (b)(3)(B)3. and (d)(10)(B) (Register 91, No. 32).
3. Amendment of subsections (a)(6)(A), (a)(6)(A)3., (b)(2)(A)11., new subsection (b)(5)(E)11., amendment of subsections (c)(1)(C)4. and 5. with renumbering, (d)(10)(B)7. and NOTE filed 11–4–91; operative 1–1–92 (Register 92, No. 10).
4. Renumbering of former section 100159 to section 100160 and renumbering of former section 100158 to section 100159, including amendment of section, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
5. Renumbering of former section 100159 to section 100158 and renumbering and amendment of former section 100160 to section 100159 filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100160. Required Testing.

(a) An approved paramedic training program shall include periodic examinations and final comprehensive competency–based examinations to test the knowledge and skills specified in this Chapter.

(b) Successful performance in the clinical and field setting shall be required prior to course completion.

NOTE: Authority cited: Sections 1797.107, 1797.172 and 1797.185, Health and Safety Code. Reference: Sections 1797.172, 1797.185, 1797.208, 1797.210 and 1797.213, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100160 to section 100165 and renumbering and amendment of section 100156 to section 100160 filed 7–10–89; operative 8–9–89 (Register 89, No. 29). For prior history, see Register 84, No. 20.
2. Amendment of NOTE filed 11–4–91; operative 1–1–92 (Register 92, No. 10).
3. Renumbering of former section 100160 to section 100161 and renumbering of former section 100159 to section 100160 filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
4. Renumbering of former section 100160 to section 100159 and renumbering of former section 100161 to section 100160 filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100161. Course Completion Record.

(a) An approved paramedic training program shall issue a tamper resistant course completion record to each person who has successfully completed the paramedic training program. The course completion record shall be issued no later than ten working days from the date of the student's successful completion of the paramedic training program.

(b) The course completion record shall contain the following:

(1) The name of the individual.

(2) The date of completion.

(3) The following statement: "The individual named on this record has successfully completed an approved paramedic training program."

(4) The name of the paramedic training program approving authority.

(5) The signature of the course director.

(6) The name and location of the training program issuing the record.

(7) The following statement in bold print: "This is not a paramedic license."

(8) A list of optional scope of practice procedures and/or medications approved pursuant to subsection (c)(2)(A)–(D) of Section 100145 and taught in the course.

NOTE: Authority cited: Sections 1797.107 and 1797.172, Health and Safety Code. Reference: Section 1797.172, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100161 to section 100166, and renumbering and amendment of section 100157 to section 100161 filed 7–10–89; operative 8–9–89 (Register 89, No. 29). For prior history, see Register 84, No. 20.
2. Repealer of subsection (c) filed 11–29–93 as an emergency; operative 12–1–93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3–30–94 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 11–29–93 order transmitted to OAL 3–30–94; disapproved by OAL and order of repeal as to 11–29–93 order filed on 5–11–94 (Register 94, No. 19).
4. 11–29–93 order refiled 5–12–94 as an emergency; operative 5–12–94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–9–94 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 5–12–94 order transmitted to OAL 9–9–94 and filed 10–24–94 (Register 94, No. 43).
6. Renumbering of former section 100161 to section 100162 and renumbering of former section 100160 to section 100161, including amendment of section and NOTE, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
7. Renumbering of former section 100161 to section 100160 and renumbering and amendment of former section 100162 to section 100161 filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100161.1. Additional Documentation.

NOTE: Authority cited: Sections 1797.107 and 1797.172, Health and Safety Code. Reference: Section 1797.172, Health and Safety Code.

HISTORY

1. New section filed 11–29–93 as an emergency; operative 12–1–93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3–30–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 11–29–93 order transmitted to OAL 3–30–94; disapproved by OAL and order of repeal as to 11–29–93 order filed on 5–11–94 (Register 94, No. 19).
3. 11–29–93 order including amendment of section refiled 5–12–94 as an emergency; operative 5–12–94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–9–94 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 94, No. 21).
5. Certificate of Compliance as to 5–12–94 order transmitted to OAL 9–9–94 and filed 10–24–94 (Register 94, No. 43).
6. Repealer filed 3–15–99; operative 4–14–99 (Register 99, No. 12).

Article 4. Applications and Examinations

§ 100162. Date and Filing of Applications.

(a) The EMS Authority shall notify the applicant within thirty days of receipt of the state application that the application was received and shall specify what information, if any, is missing. The types of applications which may be required to be submitted by the applicant are as follows:

(1) Application for Initial License (California Graduate), Form #L–01, Revised 03/03.

(2) Application for Initial License of Out–of–State Candidates who are registered with the National Registry of Emergency Medical Technicians, Form #L–01A, Revised 03/03.

(3) Application for License Renewal, Form #RL–01, Revised 03/03.

(4) Application for Lapsed License Renewal, Form #RL–01A, Revised 03/03.

(5) Applicant fingerprint card, FD–258 dated 5/11/99 or a Request for Live Scan Applicant Submission Form, BCII 8016 (Rev 04/01), submitted to the California Department of Justice, for a state summary criminal history provided by the Department of Justice in accordance with the provisions of section 11105 et seq. of the Penal Code.

(b) Applications for renewal of license shall be postmarked, hand delivered, or otherwise received by the EMS Authority at least thirty calendar days prior to expiration of current license. Applications postmarked, hand delivered or otherwise received by the EMS Authority less than 30 days prior to the expiration date of the current license will not cause the license to lapse but will require the applicant to pay a $50 late fee, as specified in Section 100171(b)(4) of this Chapter.

(c) Eligible out–of–state applicants defined in section 100164(b) and eligible applicants defined in section 100164(c) of this Chapter who have applied to challenge the paramedic licensure process shall be notified by the EMS Authority within forty–five working days of receiving the application. Notification shall advise the applicant that the application has been received, and shall specify what information, if any, is missing.

(d) An application shall be denied without prejudice when an applicant does not complete the application, furnish additional information or documents requested by the EMS Authority or fails to pay any required fees. An applicant shall be deemed to have abandoned an application if the applicant does not complete the requirements for licensure within one year from the date on which the application was filed. An application submitted subsequent to an abandoned application shall be treated as a new application.

(e) A complete state application is a signed application submitted to the EMS Authority that provides the requested information and is accompanied by the appropriate application fee(s). All statements submitted by or on behalf of an applicant shall be made under penalty of perjury.

NOTE: Authority cited: Sections 1797.107 and 1797.172, Health and Safety Code. Reference: Section 1797.172, Health and Safety Code.

HISTORY

1. Renumbering of article 4 to article 5, renumbering of former section 100162 to section 100163, and new article 4 and section filed 11–29–93 as an emergency; operative 12–1–93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3–30–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 11–29–93 order transmitted to OAL 3–30–94; disapproved by OAL and order of repeal as to 11–29–93 order filed on 5–11–94 (Register 94, No. 19).
3. 11–29–93 order including amendment of section refiled 5–12–94 as an emergency; operative 5–12–94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–9–94 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 94, No. 21).
5. Certificate of Compliance as to 5–12–94 order transmitted to OAL 9–9–94 with amendment of subsection (c) and filed 10–24–94 (Register 94, No. 43).
6. Renumbering of former section 100162 to section 100163 and renumbering of former section 100161 to section 100162, including amendment of section, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
7. Renumbering of former section 100162 to section 100161 and renumbering and amendment of former section 100163 to section 100162 filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100162.1. Written and Skills Examination.

NOTE: Authority cited: Sections 1797.7, 1797.107, 1797.172, 1797.174 and 1797.185, Health and Safety Code. Reference: Sections 1797.7, 1797.172, 1797.185, 1797.214 and 1798.207, Health and Safety Code.

HISTORY

1. New section filed 11–29–93 as an emergency; operative 12–1–93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3–30–94 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 11–29–93 order transmitted to OAL 3–30–94; disapproved by OAL and order of repeal as to 11–29–93 order filed on 5–11–94 (Register 94, No. 19).
3. 11–29–93 order including amendment of section refiled 5–12–94 as an emergency; operative 5–12–94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–9–94 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 94, No. 21).
5. Certificate of Compliance as to 5–12–94 order transmitted to OAL 9–9–94 with amendment of subsection (d)(2) and filed 10–24–94 (Register 94, No. 43).
6. Renumbering of former section 100162.1 to section 100164 filed 3–15–99; operative 4–14–99 (Register 99, No. 12).

§ 100163. Written and Skills Examination.

(a) The written examination as defined in Section 100141 shall, at a minimum, test the applicant's knowledge and competency in the subject areas comprising the basic scope of practice as specified in Section 100145.

(b) The practical examination as defined in Section 100140 shall, at a minimum, test the applicants' competency in the ability to perform those skills specified in the United States Department of Transportation Emergency Medical Technician–Paramedic National Standard Curriculum HS 808 862 March 1999.

(c) Applicants shall comply with the procedures for examination established by the EMS Authority and the National Registry of Emergency Medical Technicians and shall not violate or breach the security of the examination. Applicants found to have violated the security of the examination or examination process as specified in Section 1798.207 of the Health and Safety Code, shall be subject to the penalties specified therein.

(d) Students enrolled in a paramedic training program shall be eligible to take the practical examination specified in Section 100140 of this chapter upon successful completion of didactic and skills laboratory, and shall be eligible to take the written examination specified in Section 100141 when they have successfully completed the didactic, clinical, and field training and have met all the provisions of the approved paramedic training program.

NOTE: Authority cited: Sections 1797.7, 1797.107, 1797.172, 1797.174 and 1797.185, Health and Safety Code. Reference: Sections 1797.7, 1797.172, 1797.185, 1797.214 and 1798.207, Health and Safety Code.

HISTORY

1. Renumbering of article 4 to article 5 and renumbering and amendment of former section 100162 to section 100163 and renumbering of former section 100163 to section 100164 filed 11–29–93 as an emergency; operative 12–1–93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3–30–94 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 92, No. 10.
2. Certificate of Compliance as to 11–29–93 order transmitted to OAL 3–30–94; disapproved by OAL and order of repeal as to 11–29–93 order filed on 5–11–94 (Register 94, No. 19).
3. 11–29–93 order including amendment of section refiled 5–12–94 as an emergency; operative 5–12–94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–9–94 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 94, No. 21).
5. Certificate of Compliance as to 5–12–94 order transmitted to OAL 9–9–94 with amendment of subsections (b), (f) and (g) filed 10–24–94 (Register 94, No. 43).
6. Renumbering of former section 100163 to section 100165 and renumbering of former section 100162 to 100163, including amendment of section, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
7. Renumbering of former section 100163 to section 100162 and renumbering and amendment of former section 100164 to section 100163 filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).
8. Amendment of subsection (d) filed 6–26–2008; operative 7–26–2008 (Register 2008, No. 26).

Article 5. Licensure

§ 100164. Licensure.

(a) In order to be eligible for initial paramedic licensure an individual shall meet the following requirements.

(1) Have a paramedic training program course completion record as specified in Section 100161 of this Chapter or other documented proof of successful completion of an approved paramedic training program within the last two years from the date of application to the EMS Authority for paramedic licensure.

(2) Complete and submit the appropriate state application forms as specified in Section 100162(a)(1) or (a)(2).

(3) Provide documentation of successful completion of the paramedic licensure written and practical examinations specified in sections 100140, 100141, and 100163.

(4) Pay the established fees pursuant to Section 100171.

(b) An individual who possesses a current paramedic registration issued by the National Registry of Emergency Medical Technicians, shall be eligible for licensure when that individual fulfills the requirements of subsection (a)(2) and (4) of this section and successfully completes a field internship as defined in sections 100152 and 100158(b).

(c) A physician, registered nurse or physician assistant currently licensed shall be eligible for paramedic licensure upon:

(1) providing documentation that their training is equivalent to the U.S. Department of Transportation Emergency Medical Technician–Paramedic National Standard Curriculum specified in Section 100159;

(2) successfully completing a field internship as defined in Sections 100152(a) and 100158(b); and,

(3) fulfilling the requirements of subsection (a)(2) through (a)(4) of this section.

(d) All documentation submitted in a language other than English shall be accompanied by a translation into English certified by a translator who is in the business of providing certified translations and who shall attest to the accuracy of such translation under penalty of perjury.

(e) The Authority shall issue within forty–five calendar days of receipt of a complete application as specified in Section 100162(e) a wallet–sized license to eligible individuals who apply for a license and successfully complete the licensure requirements.

(f) The effective date of the initial license shall be the day the license is issued. The license shall be valid for two years from the last day of the month in which it was issued.

(g) The paramedic shall be responsible for notifying the EMS Authority of her/his proper and current mailing address and shall notify the EMS Authority in writing within thirty calendar days of any and all changes of the mailing address, giving both the old and the new address, and paramedic license number.

(h) A paramedic may request a duplicate license if the individual submits a request in writing certifying to the loss or destruction of the original license, or the individual has changed his/her name. If the request for a duplicate card is due to a name change, the request shall also include documentation of the name change. The duplicate license shall bear the same number and date of expiration as the replaced license.

(i) An individual currently licensed as a paramedic by the provision of this section is deemed to be certified as an EMT–I and an EMT–II, except when the paramedic license is under suspension, with no further testing required. If certificates are issued, the expiration date of the EMT–I or EMT–II certification shall be the same expiration date as the paramedic license, unless the individual follows the EMT–I, or EMT–II certification/recertification process as specified in Chapters 2 and 3 of this Division.

(j) An individual currently licensed as a paramedic by the provisions of this section may voluntarily deactivate his/her paramedic license if the individual is not under investigation or disciplinary action by the EMS Authority for violations of Health and Safety Code Section 1798.200. If a paramedic license is voluntarily deactivated, the individual shall not engage in any practice for which a paramedic license is required, shall return his/her paramedic license to the EMS Authority, and shall notify any local EMS agency with which he/she is accredited as a paramedic or with which he/she is certified as an EMT–I or EMT–II that the paramedic license is no longer valid. Reactivation of the paramedic license shall be

done in accordance with the provisions of Section 100166(b) of this Chapter.

NOTE: Authority cited: Sections 1797.107, 1797.172, 1797.175, 1797.185, 1797.194, 1798.200 and 1798.202, Health and Safety Code. Reference: Sections 1797.63, 1797.172, 1797.175, 1797.177, 1797.185, 1797.194 and 1798.200, Health and Safety Code; and Section 15376, Government Code.

HISTORY

1. Renumbering of former section 100163 to section 100164 and renumbering of former section 100164 to section 100165 and amendment of subsection (e) filed 11-29-93 as an emergency; operative 12-1-93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3-30-94 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 92, No. 10.
2. Certificate of Compliance as to 11-29-93 order transmitted to OAL 3-30-94; disapproved by OAL and order of repeal as to 11-29-93 order filed on 5-11-94 (Register 94, No. 19).
3. 11-29-93 order including amendment of section refiled 5-12-94 as an emergency; operative 5-12-94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-9-94 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 94, No. 21).
5. Certificate of Compliance as to 5-12-94 order transmitted to OAL 9-9-94 and filed 10-24-94 (Register 94, No. 43).
6. Renumbering of former section 100164 to section 100166 and renumbering of former section 100162.1 to section 100164, including amendment of section, filed 3-15-99; operative 4-14-99 (Register 99, No. 12).
7. Renumbering of former section 100164 to section 100163 and renumbering and amendment of former section 100165 to section 100164 filed 9-10-2004; operative 10-10-2004 (Register 2004, No. 37).

§ 100165. Accreditation to Practice.

(a) In order to be accredited an individual shall:

(1) Possess a current California paramedic license.

(2) Apply to the local EMS agency for accreditation.

(3) Successfully complete an orientation of the local EMS system as prescribed by the local EMS agency which shall include policies and procedures, treatment protocols, radio communications, hospital/facility destination policies, and other unique system features. The orientation shall not exceed eight classroom hours, except when additional hours are needed to accomplish subsection (a)(4) of this section, and shall not include any further testing of the paramedic basic scope of practice. Testing shall be limited to local policies and treatment protocols provided in the orientation.

(4) Successfully complete training in any local optional scope of practice for which the paramedic has not been trained and tested.

(5) Pay the established local fee pursuant to Section 100171.

(b) If the local EMS agency requires a supervised field evaluation as part of the local accreditation process, the field evaluation shall consist of no more than ten ALS patient contacts. The field evaluation shall only be used to determine if the paramedic is knowledgeable to begin functioning under the local policies and procedures.

(1) The paramedic accreditation applicant may practice in the basic scope of practice as a second paramedic until s/he is accredited.

(2) The paramedic accreditation applicant may only perform the local optional scope of practice while in the presence of the field evaluator who is ultimately responsible for patient care.

(c) The local EMS agency medical director shall evaluate any candidate who fails to successfully complete the field evaluation and may recommend further evaluation or training as required to ensure the paramedic is competent. If, after several failed remediation attempts, the medical director has reason to believe that the paramedic's competency to practice is questionable, then the medical director shall notify the EMS Authority.

(d) If the paramedic accreditation applicant does not complete accreditation requirements within thirty calendar days, then the applicant may be required to complete a new application and pay a new fee to begin another thirty day period.

(e) A local EMS agency may limit the number of times that a paramedic applies for initial accreditation to no more than three times per year.

(f) The local EMS agency shall notify the individual applying for accreditation of the decision whether or not to grant accreditation within thirty calendar days of submission of a complete application.

(g) Accreditation to practice shall be continuous as long as licensure is maintained and the paramedic continues to meet local requirements for updates in local policy, procedure, protocol and local optional scope of practice, and continues to meet requirements of the system-wide QIP pursuant to Section 100167.

(h) An application and fee may only be required once for ongoing accreditation. An application and fee can only be required to renew accreditation when an accreditation has lapsed.

(i) The medical director of the local EMS agency may suspend or revoke accreditation if the paramedic does not maintain current licensure or meet local accreditation requirements and the following requirements are met:

(1) The paramedic has been granted due process in accordance with local policies and procedures.

(2) The local policies and procedures provide a process for appeal or reconsideration.

(j) The local EMS agency shall submit to the EMS Authority the names and dates of accreditation for those individuals it accredits within twenty working days of accreditation.

(k) During an interfacility transfer, a paramedic may utilize the scope of practice for which s/he is trained and accredited.

(l) During a mutual aid response into another jurisdiction, a paramedic may utilize the scope of practice for which s/he is trained and accredited according to the policies and procedures established by his/her accrediting local EMS agency.

NOTE: Authority cited: Sections 1797.7, 1797.107, 1797.172, 1797.185 and 1797.192, Health and Safety Code. Reference: Sections 1797.7, 1797.172, 1797.185 and 1797.214, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100164 to section 100165 and renumbering of former section 100165 to section 100166 filed 11-29-93 as an emergency; operative 12-1-93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3-30-94 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 92, No. 10.
2. Certificate of Compliance as to 11-29-93 order transmitted to OAL 3-30-94; disapproved by OAL and order of repeal as to 11-29-93 order filed on 5-11-94 (Register 94, No. 19).
3. 11-29-93 order refiled 5-12-94 as an emergency; operative 5-12-94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-9-94 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5-12-94 order transmitted to OAL 9-9-94 with amendment of subsection (d) and filed 10-24-94 (Register 94, No. 43).
5. Amendment of article 5 heading, renumbering of former section 100165 to section 100167 and renumbering of former section 100163 to section 100165, including amendment of section heading, section and NOTE, filed 3-15-99; operative 4-14-99 (Register 99, No. 12).
6. Renumbering of former section 100165 to section 100164 and renumbering and amendment of former section 100166 to section 100165 filed 9-10-2004; operative 10-10-2004 (Register 2004, No. 37).

§ 100165.1. EMT-P Continuing Education (CE) Records.

NOTE: Authority cited: Sections 1797.107, 1797.175 and 1797.185, Health and Safety Code. Reference: Sections 1797.7, 1797.172, 1797.175, 1797.185 and 1797.214, Health and Safety Code.

HISTORY

1. New section filed 11-29-93 as an emergency; operative 12-1-93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3-30-94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 11-29-93 order transmitted to OAL 3-30-94; disapproved by OAL and order of repeal as to 11-29-93 order filed on 5-11-94 (Register 94, No. 19).
3. 11-29-93 order including amendment of section refiled 5-12-94 as an emergency; operative 5-12-94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-9-94 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 94, No. 21).
5. Certificate of Compliance as to 5-12-94 order transmitted to OAL 9-9-94 and filed 10-24-94 (Register 94, No. 43).
6. Renumbering of former section 100165.1 to section 100168 filed 3-15-99; operative 4-14-99 (Register 99, No. 12).

§ 100165.2. Approval of EMT–P Continuing Education (CE) Providers.

NOTE: Authority cited: Sections 1797.107, 1797.175 and 1797.185, Health and Safety Code. Reference: Sections 1797.7, 1797.172, 1797.175, 1797.185 and 1797.214, Health and Safety Code.

HISTORY

1. New section filed 11–29–93 as an emergency; operative 12–1–93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3–30–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 11–29–93 order transmitted to OAL 3–30–94; disapproved by OAL and order of repeal as to 11–29–93 order filed on 5–11–94 (Register 94, No. 19).
3. 11–29–93 order including amendment of section refiled 5–12–94 as an emergency; operative 5–12–94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–9–94 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 94, No. 21).
5. Certificate of Compliance as to 5–12–94 order transmitted to OAL 9–9–94 with amendment of section heading filed 10–24–94 (Register 94, No. 43).
6. Renumbering of former section 100165.2 to section 100169 filed 3–15–99; operative 4–14–99 (Register 99, No. 12).

§ 100165.3. EMT–P Continuing Education (CE) Providers.

NOTE: Authority cited: Sections 1797.107, 1797.175 and 1797.185, Health and Safety Code. Reference: Sections 1797.7, 1797.172, 1797.175, 1797.185 and 1797.214, Health and Safety Code.

HISTORY

1. New section filed 11–29–93 as an emergency; operative 12/1/93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3–30–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 11–29–93 order transmitted to OAL 3–30–94; disapproved by OAL and order of repeal as to 11–29–93 order filed on 5–11–94 (Register 94, No. 19).
3. 11–29–93 order including amendment of section refiled 5–12–94 as an emergency; operative 5–12–94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–9–94 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5–12–94 order transmitted to OAL 9–9–94 and filed 10–24–94 (Register 94, No. 43).
5. Renumbering of former section 100165.3 to section 100170 filed 3–15–99; operative 4–14–99 (Register 99, No. 12).

Article 6. License Renewal

§ 100166. License Renewal.

(a) In order to be eligible for renewal of a non–lapsed paramedic license, an individual shall comply with the following requirements:

(1) Possess a current paramedic license issued in California.

(2) Complete forty–eight hours of continuing education pursuant to the provisions of Chapter 11 of this Division.

(3) Complete and submit the state EMT–Paramedic Application for License Renewal, Form #RL–01, Revised 03/03 including the Statement of Continuing Education located on the back of the license renewal application, which is sent by the EMS Authority to the applicant for license renewal approximately six months prior to the expiration date of the license.

(4) Pay the appropriate fees as specified on the application in accordance with Section 100171 of this Chapter.

(b) In order for an individual whose license has lapsed to be eligible for license renewal, the following requirements shall apply:

(1) For a lapse of less than six months, the individual shall comply with (a)(2), and (a)(4) of this section and complete and submit the state EMT–Paramedic Application specified in Section 100162(a)(4), including the Statement of Continuing Education located on the back of the lapsed license renewal application.

(2) For a lapse of six months or more, but less than twelve months, the individual shall comply with (a)(2), and (a)(4) of this section, complete an additional twelve hours of CE, for a total of sixty hours of CE, and complete and submit the state EMT–Paramedic Application specified in Section 100162(a)(4), including the Statement of Continuing Education located on the back of the lapsed license renewal application.

(3) For a lapse of twelve months or more, but less than twenty–four months, the individual shall pass the licensure examination specified in Sections 100140, 100141, and 100163 or possess a current paramedic registration issued by the National Registry of Emergency Medical Technicians, comply with (a)(2) and (a)(4) of this section, submit to the California Department of Justice an applicant fingerprint card, FD–258 dated 5/11/99 or a Request for Live Scan Service Applicant Submission Form, BCII 8016 (Rev 04/01), for a state summary criminal history provided by the Department of Justice in accordance with the provisions of Section 11105 et seq. of the Penal Code, complete an additional twenty–four hours of CE, for a total of seventy–two hours of CE and complete and submit a state EMT–Paramedic Application specified in Section 100162(a)(4), including the Statement of Continuing Education located on the back of the lapsed license renewal application.

(4) For a lapse of twenty–four months or more, the individual shall comply with (a)(2) and (a)(4) and (b)(3) of this section. Documentation of the seventy–two hours of CE shall include completion of the following courses, or their equivalent:

(A) Advanced Cardiac Life Support,

(B) Pediatric Advanced Life Support,

(C) Prehospital Trauma Life Support or Basic Trauma Life Support,

(D) cardiopulmonary resuscitation.

(c) Renewal of a license shall be for two years. If the renewal requirements are met within six months prior to the expiration date of the current license, the effective date of licensure shall be the first day after the expiration of the current license. This applies only to individuals who have not had a lapse in licensure.

(d) For individuals whose license has lapsed, the licensure cycle shall be for two years from the last day of the month in which all licensure requirements are completed and the license was issued.

(e) The EMS Authority shall notify the applicant for license renewal within thirty working days of receiving the application, that the application has been received and shall specify what information, if any, is missing.

NOTE: Authority cited: Sections 1797.107, 1797.172, 1797.175, 1797.185 and 1797.194, Health and Safety Code. Reference: Sections 1797.63, 1797.172, 1797.175, 1797.185, 1797.194 and 1797.210, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100165 to section 100166 filed 11–29–93 as an emergency; operative 12/1/93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3–30–94 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 92, No. 10.
2. Certificate of Compliance as to 11–29–93 order transmitted to OAL 3–30–94; disapproved by OAL and order of repeal as to 11–29–93 order filed on 5–11–94 (Register 94, No. 19).
3. 11–29–93 order including amendment of section refiled 5–12–94 as an emergency; operative 5–12–94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–9–94 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 94, No. 21).
5. Certificate of Compliance as to 5–12–94 order transmitted to OAL 9–9–94 with amendment of subsections (a)(4) and (c)–(e) filed 10–24–94 (Register 94, No. 43).
6. Renumbering of former section 100166 to section 100171 and renumbering of former section 100164 to section 100166, including amendment of section and NOTE, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
7. Renumbering of former section 100166 to section 100165, relocation and renumbering of former article 7 to article 6, and renumbering and amendment of former section 100171 to section 100166 filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

Article 7. System Requirements

§ 100167. Paramedic Service Provider.

(a) A local EMS agency with an advanced life support system shall establish policies and procedures for the approval, designation, and evaluation through its QIP, of all paramedic service provider(s).

(b) An approved paramedic service provider shall:

(1) Provide emergency medical service response on a continuous twenty–four hours per day basis, unless otherwise specified by the local EMS agency, in which case there shall be adequate justification for the exemption (e.g., lifeguards, ski patrol personnel, etc.).

(2) Utilize and maintain telecommunications as specified by the local EMS agency.

(3) Maintain a drug and solution inventory as specified by the local EMS agency of equipment and supplies commensurate with the basic and local optional scope of practice of the paramedic.

(4) Have a written agreement with the local EMS agency to participate in the EMS system and to comply with all applicable State regulations and local policies and procedures, including participation in the local EMS agency's QIP as specified in Chapter 12 of this Division.

(5) Be responsible for assessing the current knowledge of their paramedics in local policies, procedures and protocols and for assessing their paramedics' skills competency.

(6) If, through the QIP the employer or medical director of the local EMS agency determines that a paramedic needs additional training, observation or testing, the employer and the medical director may create a specific and targeted program of remediation based upon the identified need of the paramedic. If there is disagreement between the employer and the medical director, the decision of the medical director shall prevail.

(c) No paramedic service provider shall advertise itself as providing paramedic services unless it does, in fact, routinely provide these services on a continuous twenty–four hours per day basis and meets the requirements of subsection (b) of this section.

(d) No responding unit shall advertise itself as providing paramedic services unless it does, in fact, provide these services and meets the requirements of subsection (a) of this section.

(e) The local EMS agency may deny, suspend, or revoke the approval of a paramedic service provider for failure to comply with applicable policies, procedures, and regulations.

NOTE: Authority cited: Sections 1797.107, 1797.172 and 1798, Health and Safety Code. Reference: Sections 1797.172, 1797.178, 1797.180, 1797.204 and 1797.218, Health and Safety Code.

HISTORY

1. Relocation and renumbering of article heading and renumbering and amendment of text and NOTE of former section 100166 to section 100167 filed 11–29–93 as an emergency; operative 12/1/93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3–30–94 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 93, No. 10.
2. Certificate of Compliance as to 11–29–93 order transmitted to OAL 3–30–94; disapproved by OAL and order of repeal as to 11–29–93 order filed on 5–11–94 (Register 94, No. 19).
3. 11–29–93 order including amendment of NOTE refiled 5–12–94 as an emergency; operative 5–12–94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–9–94 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 94, No. 21).
5. Certificate of Compliance as to 5–12–94 order transmitted to OAL 9–9–94 and filed 10–24–94 (Register 94, No. 43).
6. Renumbering of former article 6 to article 8, new article 6 heading, renumbering of former section 100167 to section 100172 and renumbering of former section 100165 to section 100167, including amendment of section, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
7. Repealer of article 6 (sections 100167–100170) and section, relocation and renumbering of former article 8 to article 7, and renumbering and amendment of former section 100173 to section 100167 filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100168. Paramedic Base Hospital.

(a) A local EMS agency with an advanced life support system shall designate a paramedic base hospital(s) or alternative base station, pursuant to Health and Safety Code Section 1798.105 if no qualified base hospital is available to provide medical direction, to provide medical direction and supervision of paramedic personnel.

(b) A designated paramedic base hospital shall be responsible for the provisions of subsections (b)(1) through (b)(13) of this section, and alternate base stations shall be responsible for the provisions of subsections (b)(4) through (b)(13) of this section.

(1) Be licensed by the State Department of Health Services as a general acute care hospital, or, for an out of state general acute care hospital, meet the relevant requirements for that license and the requirements of this section where applicable, as determined by the local EMS agency which is utilizing the hospital in the local EMS system.

(2) Be accredited by the Joint Commission on Accreditation of Healthcare Organizations or the Healthcare Facilities Accreditation Program of the American Osteopathic Association.

(3) Have a special permit for basic or comprehensive emergency medical service pursuant to the provisions of Division 5, or have been granted approval by the Authority for utilization as a base hospital pursuant to the provisions of Section 1798.101 of the Health and Safety Code.

(4) Have and agree to utilize and maintain two–way telecommunications equipment, as specified by the local EMS agency, capable of direct two–way voice communication with the paramedic field units assigned to the hospital.

(5) Have a written agreement with the local EMS agency indicating the concurrence of hospital administration, medical staff, and emergency department staff to meet the requirements for program participation as specified in this Chapter and by the local EMS agency's policies and procedures.

(6) Have a physician licensed in the State of California, experienced in emergency medical care, assigned to the emergency department, available at all times to provide immediate medical direction to the mobile intensive care nurse or paramedic personnel. This physician shall have experience in and knowledge of base hospital radio operations and local EMS agency policies, procedures, and protocols.

(7) Assure that nurses giving medical direction to paramedic personnel are trained and authorized as mobile intensive care nurses by the medical director of the local EMS agency.

(8) Designate a paramedic base hospital medical director who shall be a physician on the hospital staff, licensed in the State of California who is certified or prepared for certification by the American Board of Emergency Medicine. The requirement of board certification or prepared for certification may be waived by the medical director of the local EMS agency when the medical director determines that an individual with these qualifications is not available. This physician shall be regularly assigned to the emergency department, have experience in and knowledge of base hospital radio operations and local EMS agency policies and procedures, and shall be responsible for functions of the base hospital including the QIP as designated by the medical director of the local EMS agency.

(9) Identify a mobile intensive care nurse, if utilized by the local EMS system, with experience in and knowledge of base hospital radio operations and local EMS agency policies and procedures as a prehospital liaison to assist the base hospital medical director in the medical direction and supervision of the paramedics.

(10) Ensure that a mechanism exists for replacing medical supplies and equipment used by paramedics during treatment of patients, according to policies and procedures established by the local EMS agency.

(11) Ensure that a mechanism exists for the initial supply and replacement of narcotics and other controlled substances used by paramedics during treatment of patients according to the policies and procedures of the local EMS agency.

(12) Provide for continuing education in accordance with the policies and procedures of the local EMS agency.

(13) Agree to participate in the local EMS agency's QIP which may include making available all relevant records for program monitoring and evaluation.

(c) The local EMS agency may deny, suspend, or revoke the approval of a base hospital or alternative base station for failure to comply with any applicable policies, procedures, and regulations.

NOTE: Authority cited: Sections 1797.107 and 1797.172, Health and Safety Code. Reference: Sections 1797.56, 1797.58, 1797.59, 1797.172, 1797.178, 1798, 1798.2, 1798.100, 1798.101, 1798.102 and 1798.104, Health and Safety Code.

HISTORY

1. Renumbering of former section 100167 to section 100168 and amendment of subsection (b)(4) and renumbering of former section 100168 to section 100169 filed 11-29-93 as an emergency; operative 12/1/93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3-30-94 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 92, No. 10.
2. Certificate of Compliance as to 11-29-93 order transmitted to OAL 3-30-94; disapproved by OAL and order of repeal as to 11-29-93 order filed on 5-11-94 (Register 94, No. 19).
3. 11-29-93 order including amendment of NOTE refiled 5-12-94 as an emergency; operative 5-12-94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-9-94 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 94, No. 21).
5. Certificate of Compliance as to 5-12-94 order transmitted to OAL 9-9-94 and filed 10-24-94 (Register 94, No. 43).
6. Renumbering of former section 100168 to section 100173 and renumbering of former section 100165.1 to section 100168, including amendment of section heading and section, filed 3-15-99; operative 4-14-99 (Register 99, No. 12).
7. Repealer of former section 100168 and renumbering and amendment of former section 100174 to section 100168 filed 9-10-2004; operative 10-10-2004 (Register 2004, No. 37).

§ 100169. Medical Control.

The medical director of the local EMS agency shall establish and maintain medical control in the following manner:

(a) Prospectively, by assuring the development of written medical policies and procedures, to include at a minimum:

(1) Treatment protocols that encompass the paramedic scope of practice.

(2) Local medical control policies and procedures as they pertain to the paramedic base hospitals, alternative base stations, paramedic service providers, paramedic personnel, patient destination, and the local EMS agency.

(3) Criteria for initiating specified emergency treatments on standing orders or for use in the event of communication failure that is consistent with this Chapter.

(4) Criteria for initiating specified emergency treatments, prior to voice contact, that are consistent with this Chapter.

(5) Requirements to be followed when it is determined that the patient will not require transport to the hospital by ambulance or when the patient refuses transport.

(6) Requirements for the initiation, completion, review, evaluation, and retention of a patient care record as specified in this Chapter. These requirements shall address but not be limited to:

(A) Initiation of a record for every patient response.

(B) Responsibilities for record completion.

(C) Record distribution to include local EMS agency, receiving hospital, paramedic base hospital, alternative base station, and paramedic service provider.

(D) Responsibilities for record review and evaluation.

(E) Responsibilities for record retention.

(b) Establish policies which provide for direct voice communication between a paramedic and a base hospital physician or mobile intensive care nurse, as needed.

(c) Retrospectively, by providing for organized evaluation and continuing education for paramedic personnel. This shall include, but not be limited to:

(1) Review by a base hospital physician or mobile intensive care nurse of the appropriateness and adequacy of paramedic procedures initiated and decisions regarding transport.

(2) Maintenance of records of communications between the service provider(s) and the base hospital through tape recordings and through emergency department communication logs sufficient to allow for medical control and continuing education of the paramedic.

(3) Organized field care audit(s).

(4) Organized opportunities for continuing education including maintenance and proficiency of skills as specified in this Chapter.

(d) In circumstances where use of a base hospital as defined in Section 100168 is precluded, alternative arrangements for complying with the requirements of this Section may be instituted by the medical director of the local EMS agency if approved by the EMS Authority.

NOTE: Authority cited: Sections 1797.107, 1797.172 and 1797.176, Health and Safety Code. Reference: Sections 1797.90, 1797.172, 1797.202, 1797.220, 1798, 1798.2, 1798.3 and 1798.105, Health and Safety Code.

HISTORY

1. Renumbering of former section 100168 to section 100169 and renumbering of former section 100169 to section 100170 filed 11-29-93 as an emergency; operative 12-1-93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3-30-94 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 92, No. 10.
2. Certificate of Compliance as to 11-29-93 order transmitted to OAL 3-30-94; disapproved by OAL and order of repeal as to 11-29-93 order filed on 5-11-94 (Register 94, No. 19).
3. 11-29-93 order refiled 5-12-94 as an emergency; operative 5-12-94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-9-94 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5-12-94 order transmitted to OAL 9-9-94 and filed 10-24-94 (Register 94, No. 43).
5. Renumbering of former section 100169 to section 100174 and renumbering of former section 100165.2 to section 100169, including amendment of section heading, section and NOTE, filed 3-15-99; operative 4-14-99 (Register 99, No. 12).
6. Repealer of former section 100169 and renumbering and amendment of former section 100175 to section 100169 filed 9-10-2004; operative 10-10-2004 (Register 2004, No. 37).

Article 8. Record Keeping and Fees

§ 100170. Record Keeping.

(a) Each paramedic approving authority shall maintain a record of approved training programs within its jurisdiction and annually provide the State EMS Authority with the name, address, and course director of each approved program. The State EMS Authority shall be notified of any changes in the list of approved training programs.

(b) Each paramedic approving authority shall maintain a list of current paramedic program medical directors, course directors, and principal instructors within its jurisdiction.

(c) The State EMS Authority shall maintain a record of approved training programs.

(d) Each local EMS agency shall, at a minimum, maintain a list of all paramedics accredited by them in the preceding five years.

(e) The paramedic is responsible for accurately completing the patient care record referenced in Section 100169(a)(6) which shall contain, but not be limited to, the following information when such information is available to the paramedic:

(1) The date and estimated time of incident.

(2) The time of receipt of the call (available through dispatch records).

(3) The time of dispatch to the scene.

(4) The time of arrival at the scene.

(5) The location of the incident.

(6) The patient's:

(A) Name;

(B) Age;

(C) Gender;

(D) Weight, if necessary for treatment;

(E) Address;

(F) Chief complaint; and

(G) Vital signs.

(7) Appropriate physical assessment.

(8) The emergency care rendered and the patient's response to such treatment.

(9) Patient disposition.

(10) The time of departure from scene.

(11) The time of arrival at receiving facility (if transported).

(12) The name of receiving facility (if transported).

(13) The name(s) and unique identifier number(s) of the paramedics.

(14) Signature(s) of the paramedic(s).

(f) A local EMS agency utilizing computer or other electronic means of collecting and storing the information specified in subsection (e) of this section shall in consultation with EMS providers establish policies for the collection, utilization and storage of such data.

NOTE: Authority cited: Sections 1797.107, 1797.172 and 1797.185, Health and Safety Code. Reference: Sections 1797.172, 1797.173, 1797.185, 1797.200, 1797.204 and 1797.208, Health and Safety Code.

HISTORY

1. Renumbering of former section 100169 to section 100170 and amendment of subsection (d) and renumbering of former section 100170 to section 100171 filed 11–29–93 as an emergency; operative 12/1/93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3–30–94 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 92, No. 10.
2. Certificate of Compliance as to 11–29–93 order transmitted to OAL 3–30–94; disapproved by OAL and order of repeal as to 11–29–93 order filed on 5–11–94 (Register 94, No. 19).
3. 11–29–93 order including amendment of section refiled 5–12–94 as an emergency; operative 5–12–94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–9–94 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 94, No. 21).
5. Certificate of Compliance as to 5–12–94 order transmitted to OAL 9–9–94 and filed 10–24–94 (Register 94, No. 43).
6. Renumbering of former section 100170 to section 100175 and renumbering of former section 100165.3 to section 100170, including amendment of section heading, repealer and new section, and amendment of NOTE, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
7. Repealer of former section 100170, relocation and renumbering of former article 9 to article 8 and renumbering of former section 100176 to section 100170 filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100171. Fees.

(a) A local EMS agency may establish a schedule of fees for paramedic training program review and approval, CE provider approval and paramedic accreditation in an amount sufficient to cover the reasonable cost of complying with the provisions of this Chapter.

(b) The following are the licensing fees established by the EMS Authority:

(1) The fee for initial application for paramedic licensure for individuals who have completed training in California through an approved paramedic training program shall be $50.00.

(2) The fee for initial application for paramedic licensure for individuals who have completed out–of–state paramedic training, as specified in Section 100164(b), or for individuals specified in Section 100164(c), shall be $100.00.

(3) The fee for application for license or license renewal as a paramedic shall be $125.00.

(4) The fee for failing to submit an application for renewal within the timeframe specified in Section 100162(b), or for an individual whose license has lapsed, as specified in Section 100166(b)(1), (2), (3) and (4) shall be $50.00.

(5) The fee for state summary criminal history shall be in accordance with the schedule of fees established by the California Department of Justice.

(6) The fee for replacement of a license shall be $10.00.

(7) The fee for approval of an out–of–state CE provider shall be $200.00.

(8) The fee for administration of the provisions of Section 17520 of the Family Code shall be $5.00.

NOTE: Authority cited: Sections 1797.107, 1797.112, 1797.172, 1797.185 and 1797.212, Health and Safety Code. Reference: Sections 1797.172, 1797.185 and 1797.212, Health and Safety Code; and Section 11105, Penal Code.

HISTORY

1. Relocation and renumbering of article heading, renumbering and amendment of former section 100170 to section 100171 filed 11–29–93 as an emergency; operative 12–1–93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3–30–94 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 92, No. 10.
2. Certificate of Compliance as to 11–29–93 order transmitted to OAL 3–30–94; disapproved by OAL and order of repeal as to 11–29–93 order filed on 5–11–94 (Register 94, No. 19).
3. 11–29–93 order refiled 5–12–94 as an emergency; operative 5–12–94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–9–94 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5–12–94 order transmitted to OAL 9–9–94 and filed 10–24–94 (Register 94, No. 43).
5. Renumbering of former article 7 to article 9, new article 7 heading, renumbering of former section 100171 to section 100176 and renumbering of former section 100166 to section 100171, including amendment of section heading, section and NOTE, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
6. Renumbering of former article 7 to article 6, relocation of newly designated article 6 heading to precede section 100166, renumbering of section 100171 to section 100166 and renumbering and amendment of former section 100177 to section 100171 filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

Article 9. Discipline and Reinstatement of License

§ 100172. Proceedings.

(a) Any proceedings by the EMS Authority to deny, suspend or revoke the license of a paramedic or place any paramedic license holder on probation pursuant to Section 1798.200 of the Health and Safety Code, or impose an administrative fine pursuant to Section 1798.210 of the Health and Safety Code, shall be conducted in accordance with this article and pursuant to the provisions of the Administrative Procedure Act, Government Code, Section 11500 et seq.

(b) Before any disciplinary proceedings are undertaken, the EMS Authority shall evaluate all information submitted to or discovered by the EMS Authority including but not limited to, a recommendation for suspension or revocation from a medical director of a local EMS agency, for evidence of a threat to public health and safety pursuant to Section 1798.200 of the Health and Safety Code.

(c) The authority shall use the "EMS Authority Recommended Guidelines for Disciplinary Orders and Conditions of Probation", dated July 26, 2008 and incorporated by reference herein, as the standard in settling disciplinary matters when a paramedic applicant or license holder is found to be in violation of Section 1798.200 of Division 2.5 of the Health and Safety Code.

(d) The administrative law judge shall use the "EMS Authority Recommended Guidelines for Disciplinary Orders and Conditions of Probation", dated July 26, 2008 and incorporated by reference herein, as a guide in making any recommendations to the Authority for discipline of a paramedic applicant or license holder found in violation of Section 1798.200 of Division 2.5 of the Health and Safety Code.

NOTE: Authority cited: Sections 1797.107, 1797.176, 1798.200, 1798.204 and 1798.210, Health and Safety Code. Reference: Sections 1797.172, 1797.174, 1797.176, 1797.185, 1798.200, 1798.204 and 1798.210, Health and Safety Code; and Section 11500 et seq., Government Code.

HISTORY

1. Renumbering and amendment of text and NOTE of former section 100171 to section 100172 filed 11–29–93 as an emergency; operative 12–1–93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3–30–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 11–29–93 order transmitted to OAL 3–30–94; disapproved by OAL and order of repeal as to 11–29–93 order filed on 5–11–94 (Register 94, No. 19).
3. 11–29–93 order including amendment of section and NOTE refiled 5–12–94 as an emergency; operative 5–12–94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–9–94 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 94, No. 21).
5. Certificate of Compliance as to 5–12–94 order transmitted to OAL 9–9–94 with amendment of subsection (a)(6) filed 10–24–94 (Register 94, No. 43).
6. Editorial correction of subsection (b)(2) (Register 99, No. 12).
7. Renumbering and amendment of former article 6 to article 8, renumbering of former section 100172 to section 100177 and renumbering of former section 100167 to section 100172, including amendment of section heading and section, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
8. Renumbering of former article 8 to article 7, relocation of newly designated article 7 heading to precede section 100167, repealer of former section 100172, renumbering and relocation of former article 10 to article 9, and renumbering of former section 100178 to section 100172 filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

9. Amendment of subsections (a), (c) and (d) and amendment of NOTE filed 6–26–2008; operative 7–26–2008 (Register 2008, No. 26).

§ 100173. Denial/Revocation Standards.

(a) The authority shall deny/revoke a paramedic license if any of the following apply to the applicant:

(1) Has committed any sexually related offense specified under Section 290 of the Penal Code.

(2) Has been convicted of murder, attempted murder, or murder for hire.

(3) Has been convicted of two or more felonies.

(4) Is on parole or probation for any felony.

(b) The authority shall deny/revoke a paramedic license, if any of the following apply to the applicant:

(1) Has been convicted and released from incarceration for said offense during the preceding fifteen years for the crime of manslaughter or involuntary manslaughter.

(2) Has been convicted and released from incarceration for said offense during the preceding ten years for any offense punishable as a felony.

(3) Has been convicted of two misdemeanors within the preceding five years for any offense relating to the use, sale, possession, or transportation of narcotics or addictive or dangerous drugs.

(4) Has been convicted of two misdemeanors within the preceding five years for any offense relating to force, violence, threat, or intimidation.

(5) Has been convicted within the preceding five years of any theft related misdemeanor.

(c) The authority may deny/revoke a paramedic license if any of the following apply to the applicant:

(1) Has committed any act involving fraud or intentional dishonesty for personal gain within the preceding seven years.

(2) Is required to register pursuant to Section 11590 of the Health & Safety Code.

(d) Subsections (a) and (b) shall not apply to convictions that have been pardoned by the governor, and shall only apply to convictions where the applicant/licensee was prosecuted as an adult. Equivalent convictions from other states shall apply to the type of offenses listed in (a) and (b). As used in this section, "felony" or "offense punishable as a felony" refers to an offense for which the law prescribes imprisonment in the state prison as either an alternative or the sole penalty, regardless of the sentence the particular defendant received.

(e) This section shall not apply to those paramedics who obtained their California Paramedic License prior to the effective date of this Section; unless:

(1) The licensee is convicted of any misdemeanor or felony subsequent to the effective date of this Section.

(2) The licensee committed any sexually related offense specified under Section 290 of the Penal Code.

(3) The licensee failed to disclose to the EMS Authority any prior convictions when completing his/her application for initial paramedic license or license renewal.

(f) Nothing in this section shall prevent the authority from taking licensure action pursuant to Health & Safety Code Section 1798.200.

(g) The director may grant a license to anyone otherwise precluded under subsections (a) and (b) of this section if the director believes that extraordinary circumstances exist to warrant such an exemption.

(h) Nothing in this section shall negate an individual's right to appeal the denial of a license or petition for reinstatement of a license pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

NOTE: Authority cited: Sections 1797.107, 1797.176, 1798.200 and 1798.204, Health and Safety Code. Reference: Sections 1797.172, 1797.174, 1797.176, 1797.185, 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. New article 8 and section filed 11–29–93 as an emergency; operative 12–1–93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3–30–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 11–29–93 order transmitted to OAL 3–30–94; disapproved by OAL and order of repeal as to 11–29–93 order filed on 5–11–94 (Register 94, No. 19).
3. 11–29–93 order including amendment of section refiled 5–12–94 as an emergency; operative 5–12–94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–9–94 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 94, No. 21).
5. Certificate of Compliance as to 5–12–94 order transmitted to OAL 9–9–94 with repealer of subsection (b) and subsection redesignation filed 10–24–94 (Register 94, No. 43).
6. Renumbering of former section 100173 to section 100178 and renumbering of former section 100168 to section 100173, including amendment of section heading and section, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
7. Renumbering of former section 100173 to section 100167 and renumbering and amendment of former section 100178.1 to section 100173 filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100174. Substantial Relationship Criteria for the Denial, Placement on Probation, Suspension, Fine, or Revocation of a License.

(a) For the purposes of denial, placement on probation, suspension, or revocation, of a license, pursuant to Section 1798.200 of the Health and Safety Code, or imposing an administrative fine pursuant to Section 1798.210 of the Health and Safety Code, a crime or act shall be substantially related to the qualifications, functions and/or duties of a person holding a paramedic license under Division 2.5 of the Health and Safety Code. A crime or act shall be considered to be substantially related to the qualifications, functions, or duties of a paramedic if to a substantial degree it evidences present or potential unfitness of a paramedic to perform the functions authorized by her/his license in a manner consistent with the public health and safety.

(b) For the purposes of a crime, the record of conviction or a certified copy of the record shall be conclusive evidence of such conviction. "Conviction" means the final judgement on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere.

NOTE: Authority cited: Sections 1797.107, 1797.176, 1798.200, 1798.210 and 1798.204, Health and Safety Code. Reference: Sections 1797.172, 1797.174, 1797.176, 1797.185, 1798.200, 1798.204 and 1798.210, Health and Safety Code.

HISTORY

1. New section filed 11–29–93 as an emergency; operative 12–1–93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3–30–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 11–29–93 order transmitted to OAL 3–30–94; disapproved by OAL and order of repeal as to 11–29–93 order filed on 5–11–94 (Register 94, No. 19).
3. 11–29–93 order refiled 5–12–94 as an emergency; operative 5–12–94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–9–94 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5–12–94 order transmitted to OAL 9–9–94 and filed 10–24–94 (Register 94, No. 43).
5. Renumbering of former section 100174 to section 100179 and renumbering of former section 100169 to section 100174, including amendment of section heading and section, filed 3–15–99; operative 4–14–99 (Register 99, No. 12).
6. Renumbering of former section 100174 to section 100168 and renumbering of former section 100179 to section 100174 filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).
7. Amendment of section heading, subsection (a) and NOTE filed 6–26–2008; operative 7–26–2008 (Register 2008, No. 26).

§ 100175. Rehabilitation Criteria for Denial, Placement on Probation, Suspension, Revocations, and Reinstatement of License.

(a) At the discretion of the EMS Authority, the EMS Authority may issue a license subject to specific provisional terms, conditions, and review. When considering the denial, placement on probation, suspension, or revocation of a license pursuant to Section 1798.200 of the Health and Safety Code, or a petition for reinstatement or reduction of penalty under Section 11522 of the Government Code, the EMS Authority in evaluating the rehabilitation of the applicant and present eligibility for a license, shall consider the following criteria:

(1) The nature and severity of the act(s) or crime(s).

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial, placement on probation, suspension, or revocation which also could be considered grounds

for denial, placement on probation, suspension, or revocation under Section 1798.200 of the Health and Safety Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subsection (1) or (2) of this section.

(4) The extent to which the person has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the person.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the person.

NOTE: Authority cited: Sections 1797.107, 1797.176, 1798.200 and 1798.204, Health and Safety Code. Reference: Sections 1797.172, 1797.174, 1797.176, 1797.185, 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. New section filed 11-29-93 as an emergency; operative 12-1-93 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 3-30-94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 11-29-93 order transmitted to OAL 3-30-94; disapproved by OAL and order of repeal as to 11-29-93 order filed on 5-11-94 (Register 94, No. 19).
3. 11-29-93 order refiled 5-12-94 as an emergency; operative 5-12-94 (Register 94, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-9-94 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5-12-94 order transmitted to OAL 9-9-94 and filed 10-24-94 (Register 94, No. 43).
5. Renumbering of former section 100175 to section 100180 and renumbering of former section 100170 to section 100175, including amendment of section, filed 3-15-99; operative 4-14-99 (Register 99, No. 12).
6. Renumbering of former section 100175 to section 100169 and renumbering and amendment of former section 100180 to section 100175 filed 9-10-2004; operative 10-10-2004 (Register 2004, No. 37).

§ 100176. Record Keeping.

NOTE: Authority cited: Sections 1797.107, 1797.172 and 1797.185, Health and Safety Code. Reference: Sections 1797.172, 1797.173, 1797.185, 1797.200, 1797.204 and 1797.208, Health and Safety Code.

HISTORY

1. Renumbering of former article 7 to article 9 and renumbering of former section 100171 to section 100176, including amendment of section, filed 3-15-99; operative 4-14-99 (Register 99, No. 12).
2. Renumbering of former article 9 to article 8, relocation of newly designated article 8 heading to precede section 100170, and renumbering of former section 100176 to section 100170 filed 9-10-2004; operative 10-10-2004 (Register 2004, No. 37).

§ 100177. Fees.

NOTE: Authority cited: Sections 1797.107, 1797.112, 1797.172, 1797.185 and 1797.212, Health and Safety Code. Reference: Sections 1797.172, 1797.185 and 1797.212, Health and Safety Code; and Section 11105, Penal Code.

HISTORY

1. Renumbering of former section 100172 to section 100177, including amendment of section, filed 3-15-99; operative 4-14-99 (Register 99, No. 12).
2. Amendment of subsection (b)(4) and renumbering of subsequent subsections filed 2-20-2003; operative 2-20-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 8).
3. Renumbering of former section 100177 to section 100171 filed 9-10-2004; operative 10-10-2004 (Register 2004, No. 37).

§ 100178. Proceedings.

NOTE: Authority cited: Sections 1797.107, 1797.176, 1798.200 and 1798.204, Health and Safety Code. Reference: Sections 1797.172, 1797.174, 1797.176, 1797.185, 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former article 8 to article 10, renumbering of former section 100173 to section 100178, including amendment of section, filed 3-15-99; operative 4-14-99 (Register 99, No. 12).
2. New subsections (c) and (d) filed 6-10-2002; operative 7-10-2002 (Register 2002, No. 24).
3. Renumbering of former article 10 to article 9, relocation of newly designated article 9 heading to precede section 100172 and renumbering of former section 100178 to section 100172 filed 9-10-2004; operative 10-10-2004 (Register 2004, No. 37).

§ 100178.1. Denial/Revocation Standards.

NOTE: Authority cited: Sections 1797.107, 1797.176, 1798.200 and 1798.204, Health and Safety Code. Reference: Sections 1797.172, 1797.174, 1797.176, 1797.185, 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. New section filed 6-10-2002; operative 7-10-2002 (Register 2002, No. 24).
2. Renumbering of former section 100178.1 to section 100173 filed 9-10-2004; operative 10-10-2004 (Register 2004, No. 37).

§ 100179. Substantial Relationship Criteria for the Denial, Placement on Probation, Suspension, or Revocation of a License.

NOTE: Authority cited: Sections 1797.107, 1797.176, 1798.200 and 1798.204, Health and Safety Code. Reference: Sections 1797.172, 1797.174, 1797.176, 1797.185, 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. Renumbering of former section 100174 to section 100179, including amendment of section heading and section, filed 3-15-99; operative 4-14-99 (Register 99, No. 12).
2. Renumbering of former section 100179 to section 100174 filed 9-10-2004; operative 10-10-2004 (Register 2004, No. 37).

§ 100180. Rehabilitation Criteria for Denial, Placement on Probation, Suspension, Revocations, and Reinstatement of License.

NOTE: Authority cited: Sections 1797.107, 1797.176, 1798.200 and 1798.204, Health and Safety Code. Reference: Sections 1797.172, 1797.174, 1797.176, 1797.185, 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. Renumbering of former section 100175 to section 100180, including amendment of section heading and section, filed 3-15-99; operative 4-14-99 (Register 99, No. 12).
2. Renumbering of former section 100180 to section 100175 filed 9-10-2004; operative 10-10-2004 (Register 2004, No. 37).

Chapter 5. Process for Applicant Verification

§ 100190. Limitations on Paramedic Licenses for Aliens.

(a) All eligibility requirements contained herein shall be applied without regard to the race, creed, color, gender, religion, or national origin of the individual applying for the public benefit.

(b) Pursuant to Section 411 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, (Pub. L. No. 104-193 (PRWORA)), (8 U.S.C. § 1621), and not withstanding any other provision of this division, aliens who are not qualified aliens, nonimmigrant aliens under the Immigration and Nationality Act (INA) (8 U.S.C. Section 1101 et seq.), or aliens paroled into the United States under Section 212(d)(5) of the INA (8 U.S.C. § 1182(d)(5)), for less than one year, are not eligible to receive a California paramedic license as set forth in Section 1797.172 of Division 2.5 of the Health and Safety Code, except as provided in 8 U.S.C. 1621(c)(2).

(c) A qualified alien is an alien who, at the time he or she applies for, receives, or attempts to receive a public benefit, is, under Section 431(b) and (c) of the PWRORA (8 U.S.C. § 1641(b) and (c)), any of the following:

(1) An alien who is lawfully admitted for permanent residence under the INA (8 U.S.C. § 1101 et seq.).

(2) An alien who is granted asylum under Section 208 in the INA (8 U.S.C. § 1158).

(3) A refugee who is admitted to the United States under Section 207 of the INA (8 U.S.C. § 1157).

(4) An alien who is paroled into the United States under Section 212(d)(5) of the INA (8 U.S.C. § 1182(d)(5)) for a period of at least one year.

(5) An alien whose deportation is being withheld under Section 243(h) of the INA (8 U.S.C. § 1253(h)) (as in effect immediately before the effective date of Section 307 of Division C of Public Law 104-208) or Section 241(b)(3) of such Act (8 U.S.C. Section 1251(b)(3)) (as amended by Section 305 (a) of Division C of Public Law 104-208).

(6) An alien who is granted conditional entry pursuant to Section 203(a)(7) of the INA as in effect prior to April 1, 1980. (8 U.S.C. Section 1153(a)(7)) (See editorial note under 8 U.S.C. Section 1101, "Effective Date of 1980 Amendment.")

(7) An alien who is a Cuban or Haitian entrant (as defined in Section 501(e) of the Refugee Education Assistance Act of 1980 (8 U.S.C. Section 1522 note)).

(8) An alien who meets all of the conditions of subparagraphs (A), (B), (C), and (D) below:

(A) The alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent of the alien consented to, or acquiesced in, such battery or cruelty. For purposes of this subsection, the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered as acts of violence.

(B) There is a substantial connection between such battery or cruelty and the need for the benefits to be provided in the opinion of the Emergency Medical Services Authority. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:

1. The benefits are needed to enable the alien to become self–sufficient following separation from the abuser.

2. The benefits are needed to enable the alien to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien from the abuser.

3. The benefits are needed due to a loss of financial support resulting from the alien's separation from the abuser.

4. The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien to lose his or her job or to earn less or to require the alien to leave his or her job for safety reasons.

5. The benefits are needed because the alien requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

6. The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into day care for fear of being found by the abuser).

7. The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

8. The benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien and/or to care for any resulting children.

9. Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien had when living with the abuser.

(C) The alien has a petition that has been approved or has a petition pending which sets forth a prima facie case for:

1. Status as a spouse or child of a United States citizen pursuant to clause (ii), (iii), or (iv) of Section 204(a)(1)(A) of the INA (8 U.S.C. § 1154(a)(1)(A)(ii), (iii) or (iv)),

2. Classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA (8 U.S.C. § 1154(a)(1)(B)(ii) or (iii)),

3. Suspension of deportation and adjustment of status pursuant to section 214(a)(3) of the INA (8 U.S.C. sec. 1254) as in effect prior to April 1, 1997 [Pub.L. 104–208, sec. 501 (effective September 30, 1996, pursuant to sec. 591); Pub.L. 104–208, sec. 304 (effective April 1, 1997, pursuant to sec. 309); Pub.L. 105–33, sec. 5581 (effective pursuant to sec. 5582)] (incorrectly codified as "cancellation of removal under section 240A of such Act [8 U.S.C. § 1229b (as in effect prior to April 1, 1997),"

4. Status as a spouse or child of a United States citizen pursuant to clause (i) of Section 204(a)(1)(A) of the INA (8 U.S.C. § 1154(a)(1)(A)(i)) or classification pursuant to clause (i) of Section 204(a) (1) (B) of the INA (8 U.S.C. § 1154(a)(1)(B)(i)), or

5. Cancellation of removal pursuant to Section 240A(b)(2) of the INA (8 U.S.C. Section 1229b(b)(2)).

(D) For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

(9) An alien who meets all of the conditions of subparagraphs (A), (B), (C), (D) and (E) below:

(A) The alien has a child who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent consented or acquiesced to such battery or cruelty. For purposes of this subsection, the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered as acts of violence.

(B) The alien did not actively participate in such battery or cruelty.

(C) There is a substantial connection between such battery or cruelty and the need for the benefits to be provided in the opinion of the Emergency Medical Services Authority. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:

1. The benefits are needed to enable the alien's child to become self–sufficient following separation from the abuser.

2. The benefits are needed to enable the alien's child to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien's child from the abuser.

3. The benefits are needed due to a loss of financial support resulting from the alien's child's separation from the abuser.

4. The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien's child to lose his or her job or to earn less or to require the alien's child to leave his or her job for safety reasons.

5. The benefits are needed because the alien's child requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

6. The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien's child's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into day care for fear of being found by the abuser).

7. The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

8. The benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien's child and/or to care for any resulting children.

9. Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien's child had when living with the abuser.

(D) The alien child meets the requirements of subsection (c)(8)(C) above.

(E) For the period for which benefits are sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

(10) An alien child who meets all of the conditions of subparagraphs (A), (B), and (C) below:

(A) The alien child resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent's spouse or by a member of the spouse's family residing in the

same household as the parent and the spouse consented or acquiesced to such battery or cruelty. For purposes of this subsection, the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered as acts of violence.

(B) There is a substantial connection between such battery or cruelty and the need for the benefits to be provided in the opinion of the Emergency Medical Services Authority. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the benefits to be provided:

1. The benefits are needed to enable the alien child's parent to become self–sufficient following separation from the abuser.

2. The benefits are needed to enable the alien child's parent to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien child's parent from the abuser.

3. The benefits are needed due to a loss of financial support resulting from the alien child's parent's separation from the abuser.

4. The benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien child's parent to lose his or her job or to earn less or to require the alien child's parent to leave his or her job for safety reasons.

5. The benefits are needed because the alien child's parent requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

6. The benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien child's parent's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into day care for fear of being found by the abuser).

7. The benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

8. The benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien child's parent and/or to care for any resulting children.

9. Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien child's parent had when living with the abuser.

(C) The alien child meets the requirements of subsection (c)(8)(C) above.

(d) For purposes of this section, "nonimmigrant" is defined the same as in Section 101(a)(15) of the INA (8 U.S.C. Section 1101(a)(15)).

(e) For purposes of establishing eligibility for paramedic licensure as described in Section 1797.172 of Division 2.5 of the Health and Safety Code, the following requirements must be met:

(1) The applicant must declare himself or herself to be a citizen of the United States or a qualified alien under subsection (c), a nonimmigrant alien under subsection (d), or an alien paroled into the United States for less than one year under Section 212(d)(5) of the INA (8 U.S.C. § 1182(d)(5)). The applicant shall declare that status through use of the "Statement of Citizenship, Alienage, and Immigration Status for State Public Benefits," Form IS–01 (4/98, incorporated by reference).

(2) The applicant must present documents of a type acceptable to the Immigration and Naturalization Service (INS) which serve as a reasonable evidence of the applicant's declared status. A fee receipt from the INS for replacement of a lost, stolen, or unreadable INS document is reasonable evidence of the alien's declared status.

(3) The applicant must complete and sign Form IS–01.

(4) Where the documents presented do not on their face appear to be genuine or to relate to the individual presenting them, the government entity that originally issued the documents shall be contacted for verification. With regard to naturalized citizens and derivative citizens presenting certificates of citizenship and aliens, the INS is the appropriate government entity to contact for verification. The Emergency Medical Services Authority shall request verification from the INS by filing INS Form G–845 with copies of the pertinent documents provided by the applicant with the local INS office. If the applicant has lost his or her original documents or presents expired documents or is unable to present any documentation evidencing his or her immigration status, the applicant shall be referred to the local INS office to obtain documentation.

(5) The type of documentation referred to the INS for verification pursuant to INS Form G–845 shall include the following:

(A) The document presented indicates immigration status but does not include an alien registration or alien admission number.

(B) The document is suspected to be counterfeit or to have been altered.

(C) The document includes an alien registration number in the A60 000 000 (not yet issued) or A80 000 000 (illegal border crossing) series.

(D) The document is one of the following: an INS Form I–181b notification letter issued in connection with an INS Form I–181 Memorandum of Creation of Record of Permanent Residence, an Arrival–Departure Record (INS Form I–94) or a foreign passport stamped "PROCESSED FOR I–551, TEMPORARY EVIDENCE OF LAWFUL PERMANENT RESIDENCE" that INS issued more than one year before the date of application for paramedic licensure.

(6) If the INS advises that the applicant has citizenship status or immigration status which makes him or her a qualified alien, a nonimmigrant or alien paroled for less than one year under section 212(d)(5) of the INA, the INS verification shall be accepted. If the INS advises that it cannot verify that the applicant has citizenship status or an immigration status that makes him or her a qualified alien, a nonimmigrant or an alien paroled for less than one year under section 212(d)(5) of the INA, benefits shall be denied and the applicant notified pursuant to the paramedic licensure program's regular procedures of his or her rights to appeal the denial of benefits.

(f) Pursuant to Section 434 of the PRWORA (8 U.S.C. § 1644), where the Emergency Medical Services Authority reasonably believes that an alien is unlawfully in the state based on the failure of the alien to provide reasonable evidence of the alien's declared status, after an opportunity to do so, said alien shall be reported to the Immigration and Naturalization Service.

(g) Provided that the applicant has completed and signed all licensure applications pursuant to Section (e)(1) under penalty of perjury, and has met all state eligibility requirements, eligibility for paramedic licensure shall not be delayed, denied, reduced or terminated while the status of the applicant is verified.

(h) Any applicant who is eligible for paramedic licensure, and whose license is denied or revoked pursuant to subsections (b) and (e), is entitled to a hearing, pursuant to CCR Title 22, Division 9, Chapter 4, Section 100175, and Division 2.5 of the Health and Safety Code, Chapter 7, Sections 1798.204 and 1798.207.

NOTE: Authority cited: Division 2.5, Sections 1797.107, 1797.172, 1798.204 and 1798.207, Health and Safety Code. Reference: Division 2.5, Sections 1798.204 and 1798.207, Health and Safety Code; and 8 U.S.C. Sections 1621, 1641 and 1642.

HISTORY

1. New chapter 5 (section 100190) and section filed 4–16–98 as an emergency; operative 4–16–98 (Register 98, No. 16). A Certificate of Compliance must be transmitted to OAL by 8–14–98 or emergency language will be repealed by operation of law on the following day.

2. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 41).
3. New section filed 10–9–98; operative 10–9–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 41).

Chapter 6. Process for EMT–I and EMT–II Certification Disciplinary Action

Article 1. Definitions

§ 100201. Certificate.

"Certificate" means a valid Emergency Medical Technician–I (EMT–I) or Emergency Medical Technician–II (EMT–II) certificate issued pursuant to Division 2.5.

NOTE: Authority cited: Sections 1797.62, 1797.107, 1797.176 and 1798.204, Health and Safety Code. Reference: Sections 1797.80, 1797.82, 1797.210, 1797.216 and 1798.200, Health and Safety Code.

HISTORY

1. Amendment of chapter heading and new section filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

§ 100202. Certifying Authority.

"Certifying authority," as used in this chapter, means the medical director of a local EMS agency who, or the public safety agency that, issued the EMT–I or EMT–II certificate.

NOTE: Authority cited: Sections 1797.107, 1797.176, 1797.210, 1797.216 and 1798.204, Health and Safety Code. Reference: Sections 1797.62 and 1798.204, Health and Safety Code.

HISTORY

1. Renumbering of former section 100206 to section 100202, including amendment of section and NOTE, filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

§ 100203. Division 2.5.

"Division 2.5" means Division 2.5 of the Health and Safety Code, the Emergency Medical Services System and Prehospital Emergency Medical Care Personnel Act.

NOTE: Authority cited: Sections 1797.107, 1797.176 and 1798.204, Health and Safety Code. Reference: Section 1798.204, Health and Safety Code.

HISTORY

1. Renumbering of former section 100207 to section 100203 filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

[The next page is 1403.]

§ 100204. Investigative Review Panel.

"Investigative review panel" or "IRP" means an impartial advisory body, the members of which are knowledgeable in the provision of prehospital emergency medical care and local EMS system policies and procedures, which may be convened to review allegations against an applicant for, or the holder of, a certificate, assist in establishing the facts of the case, and provide its findings and recommendation to the medical director of a local EMS agency, in accordance with the process described in Section 100211 of this chapter.

NOTE: Authority cited: Sections 1797.107, 1797.176 and 1798.204, Health and Safety Code. Reference: Section 1798.204, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100209 to section 100204 filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

§ 100205. Multiple Certificate Holder.

"Multiple certificate holder" means a person who holds more than one valid certificate issued pursuant to Division 2.5.

NOTE: Authority cited: Sections 1797.107, 1797.176 and 1798.204, Health and Safety Code. Reference: Sections 1797.62, 1797.80, 1797.82, 1797.210, 1797.216 and 1798.204, Health and Safety Code.

HISTORY

1. Renumbering of former section 100210 to section 100205, including amendment of section and NOTE, filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

§ 100206. Relevant Employer(s).

"Relevant employer(s)" means those employers for whom the certificate holder works, or was working at the time of the incident under review, as an EMT–I or EMT–II, either as a paid employee or a volunteer.

NOTE: Authority cited: Sections 1797.107, 179.176 and 1798.204, Health and Safety Code. Reference: Section 1798.204, Health and Safety Code.

HISTORY

1. New section filed 5–3–88; operative 6–2–88 (Register 88, No. 19).
2. Renumbering of former section 100206 to section 100202 and renumbering and amendment of former section 100213 to section 100206 filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

Article 2. General Provisions

§ 100207. Application of Chapter.

(a) The medical director shall adhere to the provisions of this chapter when implementing any of the following disciplinary actions:

(1) Denying a certificate;

(2) Placing a certificate holder on probation;

(3) Suspending a certificate; or

(4) Revoking a certificate.

(b) In order to place a certificate holder on probation or deny, suspend, or revoke a certificate, the medical director must first determine there exists a threat to the public health and safety, as evidenced by the occurrence of any of the actions listed in Section 1798.200(c) of Division 2.5 by the applicant or certificate holder.

(c) An application for certification or recertification shall be denied without prejudice and does not require an IRP, when an applicant does not meet the requirements for certification or recertification, including but not limited to, failure to pass a certification or recertification examination, lack of sufficient continuing education or documentation of a completed refresher course, failure to furnish additional information or documents requested by the certifying authority, or failure to pay any required fees. The denial shall be in effect until all requirements for certification or recertification are met. If a certificate expires before recertification requirements are met, the certificate shall be deemed a lapsed certificate and subject to the provisions of a lapsed certificate.

(d) Nothing in this chapter shall be construed to limit the authority of a base hospital medical director to provide supervision and medical control for prehospital emergency medical care personnel as specified in local medical control policies and procedures developed pursuant to requirements of Division 2.5 and Chapters 3 and 4 of this division for medical control and supervision.

NOTE: Authority cited: Sections 1797.107, 1797.176 and 1798.204, Health and Safety Code. Reference: Sections 1797.176, 1797.202, 1797.210, 1797.220, 1798, 1798.100, 1798.102, 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. New section filed 5–3–88; operative 6–2–88 (Register 88, No. 19).
2. Relocation of article 2 heading from section 100215 to section 100207, renumbering of former section 100207 to section 100203 and renumbering of former section 100215 to section 100207, including amendment of section and NOTE, filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

§ 100208. Substantial Relationship Criteria for the Denial, Placement on Probation, Suspension, or Revocation of a Certificate.

(a) For the purposes of denial, placement on probation, suspension, or revocation of a certificate, pursuant to Section 1798.200 of Division 2.5, a crime or act shall be considered to be substantially related to the qualifications, functions, or duties of a certificate holder if to a substantial degree it evidences present or potential unfitness of a certificate holder to perform the functions authorized by the certificate in a manner consistent with the public health and safety.

(b) For the purposes of a crime, the record of conviction or a certified copy of the record shall be conclusive evidence of such conviction.

(1) "Crime" means any act in violation of the penal laws of this state, any other state, or federal laws. This also means violation(s) of any statute which impose criminal penalties for such violations.

(2) "Conviction" means the final judgement on a verdict of finding of guilty, a plea of guilty, or a plea of nolo contendere.

NOTE: Authority cited: Sections 1797.107, 1797.176, 1798.200 and 1798.204, Health and Safety Code. Reference: Sections 1797.176, 1797.210, 1797.216, 1797.220 and 1798.200, Health and Safety Code.

HISTORY

1. New section filed 5–3–88; operative 6–2–88 (Register 88, No. 19).
2. Repealer and new section filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

§ 100209. Jurisdiction of Medical Director.

(a) The medical director may take disciplinary action, according to the provisions of this chapter, against a certificate holder for which any of the following conditions is true:

(1) the certificate was issued by the local EMS agency for which s/he is the designated medical director; or

(2) the certificate holder utilizes or has utilized the certificate or the skills authorized by the certificate, including certificates issued by public safety agencies, within the jurisdiction of that medical director.

(b) For an action against a multiple certificate holder, the medical director shall determine, according to the circumstances of the case and the nature of the threat to the public health and safety, whether the action shall apply to one certificate or multiple certificates.

(c) If the medical director takes any disciplinary action which affects a certificate, the medical director shall notify the EMS Authority of the findings of the investigation and the disciplinary action taken using Form EMSA–CRI (Revised 10/01).

NOTE: Authority cited: Sections 1797.107, 1797.176 and 1798.204, Health and Safety Code. Reference: Sections 1797.90, 1797.202, 1797.216, 1797.220, 1798, 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. New section filed 5–3–88; operative 6–2–88 (Register 88, No. 19).
2. Renumbering and amendment of former section 100209 to section 100204 and renumbering of former section 100217 to section 100209, including amendment of section and NOTE and new appendix I, filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).
3. Change without regulatory effect amending subsection (c) and amending Form EMSA–CRI filed 2–20–2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 8).

State of California
Negative Certification Action Report
EMSA-CRI (Rev 10/01)

SEE BACK OF FORM FOR INSTRUCTIONS FOR COMPLETION

1a. NAME AS SHOWN ON CERTIFICATE (LAST, FIRST, MI)		1b. ANY OTHER NAMES USED (LAST, FIRST, MI)
2. CERTIFICATE NUMBER:		SOCIAL SECURITY NUMBER:
3. AFFECTED CERTIFICATE:	EFFECTIVE DATE: (MM/DD/YYYY)	CERTIFYING AUTHORITY:
☐ EMT-I		
☐ EMT-II		

MAY STILL WORK AS AN EMT-I? ☐ YES ☐ NO

4. TYPE OF ACTION TAKEN

☐ NEW ACTION ☐ MODIFED ACTION

☐ IMMEDIATE SUSPENSION PENDING COMPLETION OF INVESTIGATION	DATE SUSPENDED: (MM/DD/YYYY)		
☐ SUSPENSION	☐ DURATION:	FROM:	TO:
☐ PROBATION	☐ OR UNTIL SPECIFIED REQUIREMENT IS MET		
☐ REVOCATION	DATE EFFECTIVE: (MM/DD/YYYY)		
☐ DENIAL	DATE DENIED: (MM/DD/YYYY)		
☐ REINSTATEMENT	DATE REINSTATED: (MM/DD/YYYY)		

5. REASON(S) (PER SEC. 1798.200(c) H&S CODE) FOR NEGATIVE CERTIFICATION ACTION:

□ 1. Fraud in procurement of certification

□ 2. Gross negligence

□ 3. Repeated negligent acts

□ 4. Incompetence

□ 5. Commission of fraudulent acts

□ 6. Conviction of related crimes

□ 7. Violation of Div. 2.5 regulations

□ 8. Violation of drug statutes/regulations

□ 9. Addiction to/misuse of alcohol or drugs

□ 10. Functioning outside of medical control

□ 11. Impaired/irrational behavior-physical disability

□ 12. Unprofessional conduct

□ A. Mistreatment or physical abuse of any patient

□ B. Failure to maintain confidentiality of patient medical information

□ C. Penal Code Section 290 Offense

6. LOCAL EMS AGENCY TAKING ACTION:	SIGNATURE OF MEDICAL DIRECTOR
	▶
PERSON TO CONTACT FOR ADDITIONAL INFORMATION:	
NAME: (FIRST LAST)	PHONE NUMBER: ( )

INSTRUCTIONS FOR COMPLETION OF NEGATIVE CERTIFICATION ACTION REPORT

Note: In order to ensure that certification information is current, please complete and send this form to the EMS Authority with (5) working days of completing a negative certification action or changing a negative action for any reason. A delay in reporting could result in increased danger to the public health and safety or undue hardship to a certificate holder, depending on the nature of the action taken.

1. **NAME OF CERTIFICATE HOLDER:**

   a) Provide the complete name, last name first, of the certificate holder or applicant.

   b) If the certificate holder was issued the certificate under a different name, please provide previous name used.

2. **CERTIFICATE HOLDER'S CERTIFICATION NUMBER, DRIVER'S LICENSE NUMBER AND SOCIAL SECURITY NUMBER:**

   To facilitate accurate identification of the certificate holder, please provide the individual's certification number and the individual's Social Security number.

3. **AFFECTED CERTIFICATE:**

   Check EMT-I or EMT-II to indicate the affected certificate. Specify the effective date of certification and the name of the agency that issued the certificate. If the affected certificate is for EMT-II, please indicate whether or not the certificate holder may continue to work as an EMT-I.

4. **TYPE OF ACTION TAKEN:**

   Check whether the action being reported is a new action or a modification of a previous action (i.e., If you previously reported the immediate suspension of a certificate and you are now reporting that the certificate has been revoked, check "modified action.") Then check the appropriate box(es) to indicate which of the following action(s) is being reported. Provide the additional information as indicted for each type of action.

   Immediate Suspension: Specify the date that the immediate suspension took effect.

   Probation: If probation is for a specific time period, check the top box and indicate the specific dates that the probation will be in effect. If the probation will require that a special requirement (such as completion of specific training, etc.) be met prior to reinstatement, check the second box and note the requirements on the line provided (i.e. complete 10 supervised ALS contacts, etc.)

   Suspension: Follow the instructions given above for the probation.

   Revocation: Specify the effective date of the revocation.

   Denial: Specify the date that the certificate was denied. Note: Report denials only if the denial if for one of the reasons listed in Section 1798.200 of the Health and Safety Code. A routine denial for failure to meet any basic certification requirement (i.e., completion of training, passage of certification exam, provision of required documentation, etc.) is not a negative certification action and should not be reported on this form.

   Reinstatement: Specify the date that the reinstatement was/will be effective.

5. **REASON(S) FOR NEGATIVE CERTIFICATION ACTION:**

   Specify the reason(s) the individual presents a threat to the public health and safety as safety as listed in Section 1798.200 of the Health and Safety Code. **These are only valid reasons for taking a negative certification action under the law.** If you are taking a negative certification for any reason that does not appear to be covered by the listed reason, please call the EMS Authority for clarification of applicable policy before completing the action.

6. **LOCAL EMS AGENCY INFORMATION:**

   Provide the name of the local EMS Agency taking the negative action and have the medical director sign and date the negative action report. Also provide the name and phone number of the person who should be contacted if further information is needed regarding the action.

Article 3. Evaluation and Investigation

§ 100210. Evaluation of Information.

(a) The medical director shall evaluate information received from a credible source, including information obtained from an application, medical audit or complaint, alleging or indicating the possibly of a threat to the public health and safety by the action of an applicant for, or holder of, a certificate issued pursuant to Division 2.5.

(b) If the medical director determines, following evaluation of the information, that further inquiry into the situation is necessary or that disciplinary action may be warranted, the medical director may conduct an investigation of the allegations.

NOTE: Authority cited: Sections 1797.107, 1797.176 and 1798.204, Health and Safety Code. Reference: Sections 1797.90, 1797.176, 1797.202, 1797.220, 1798, 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. New section filed 5–3–88; operative 6–2–88 (Register 88, No. 19).
2. Relocation and amendment of article 3 heading from section 100219 to section 100210, renumbering of former section 100210 to section 100205 and renumbering and amendment of former section 100219 to section 100210 filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

§ 100211. Use of an Investigative Review Panel (IRP).

(a) If, at any time during the medical director's review or investigation, the medical director determines, in his/her expert opinion, that the facts support placing a certificate holder on probation or the denial, suspension or revocation of a certificate, the medical director may convene an IRP to assist in establishing the facts of the case and to report its findings and recommendation to the medical director. Prior to the IRP hearing, the medical director shall not discuss the case with any IRP member.

(b) If the medical director does not convene an IRP prior to making a final decision to place a certificate holder on probation or deny, suspend, or revoke a certificate, the applicant for, or holder of, a certificate may, within fifteen (15) calendar days of the date that written notification of the decision to take disciplinary action is received, request in writing that an IRP be convened. Within thirty (30) days of receipt of such a request, the medical director shall convene an IRP to review the facts of the case and make a recommendation.

(c) The IRP shall consist of at least three (3) persons. IRP members must be knowledgeable in the provision of prehospital emergency medical care and EMS system policies and procedures, including all provisions of this chapter. One (1) member of the IRP shall be mutually agreed upon by the certificate holder and the medical director, if the certificate holder so requests. The IRP shall not include the local EMS agency medical director, any staff of the local EMS agency, or anyone who submitted allegations against the certificate holder or was directly involved in any incident which is included in the investigation.

(d) An IRP member shall voluntarily disqualify herself/himself and withdraw from any case in which s/he cannot accord a fair and impartial review. The applicant for, or holder of, a certificate may request, in writing within seven (7) days of receipt of notice of the date of the IRP, the disqualification of any IRP member. The request must state the reasons upon which it is claimed that a fair and impartial review cannot be accorded. The medical director shall determine within three (3) days of receipt of the request whether the evidence warrants approval of the request to disqualify the specified IRP member and so notify the requestor by certified mail prior to the date of the IRP.

(e) Prior to the conduct of the IRP hearing, the applicant or certificate holder who is under investigation or any representative of the applicant/certificate holder is prohibited from contacting any person chosen to serve on the IRP and IRP members are prohibited from contacting the applicant or certificate holder who is under investigation or any representative of the applicant/certificate holder.

(f) A notice, along with a copy of this chapter and any other policies or procedures established by the local EMS agency for implementation of the provisions of this chapter, shall be sent by certified mail to the certificate holder and his/her relevant employer(s) at least ten (10) days prior to the IRP. The notice shall state the following:

(1) the purpose of the IRP;

(2) membership of the IRP and provisions for disqualification of a member of the IRP;

(3) date, time, and location of the IRP review;

(4) applicant's/certificate holder's right to be present during the presentation of any testimony before the IRP;

(5) applicant's/certificate holder's right to call witnesses and to cross examine witnesses called by the medical director to give testimony before the IRP;

(6) applicant's/certificate holder's right to be represented by legal counsel at the IRP or to be accompanied to the IRP by any other person of the applicant's/certificate holder's choosing to provide advice and support; and

(7) applicant's/certificate holder's right to present an oral and/or written argument and present and rebut relevant evidence.

(8) applicant's/certificate holder's right to request that the IRP be open to the public.

(g) A hearing record of the IRP proceedings shall be prepared and may be done by stenographic reporter or electronic recording.

(h) The IRP shall be closed to the public unless the applicant/certificate holder requests the hearing be open to the public. However, a member of the IRP may order closure of all, or any part of, the proceedings for any of the following reasons:

(1) To satisfy the federal or state Constitution, statute or other law, including but not limited to, laws protecting privileged, confidential, or other protected information.

(2) To conduct the proceedings, including the manner of examining witnesses, in a way that is appropriate to protect a minor witness or a witness with a developmental disability, as defined in Section 4512 of the Welfare and Institutions Code, from intimidation or other harm, taking into account the rights of all persons.

(i) The IRP shall assess all the available information on the matter in order to establish the facts of the case and shall make a written report of its findings and recommendation to the medical director. The report shall be submitted to the medical director within fifteen (15) days of the date of the IRP review.

(j) In lieu of an IRP, the local EMS agency may contract with the Office of Administrative Hearings of the State of California for the services of an administrative law judge or a hearing officer to conduct proceedings pursuant to this chapter.

NOTE: Authority cited: Sections 1797.107, 1797.176 and 1798.204, Health and Safety Code; and Section 27727, Government Code. Reference: Sections 1797.90, 1797.160, 1797.176, 1797.202, 1797.220, 1798, 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. New section filed 5–3–88; operative 6–2–88 (Register 88, No. 19).
2. Repealer of former section 100211 and renumbering of former section 100222 to section 100211, including amendment of section heading, section and NOTE, filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

Article 4. Determination and Notification of Action

§ 100212. Determination of Disciplinary Action by Medical Director.

(a) The medical director shall determine what disciplinary action, if any, relative to the individual's certificate(s) shall be taken as a result of the findings of the investigation.

(b) Upon determining the disciplinary action to be taken relative to an individual's certificate(s), the medical director shall complete, and place in the record, a statement certifying the decision made by him/her and the date the decision was made. The decision must contain findings of fact and a determination of issues, together with the disciplinary action and the date the disciplinary action shall take effect. An immediate suspension shall take effect upon the date the notice required by Section 100213

of this chapter is mailed to the certificate holder. For all other disciplinary actions, the effective date shall be thirty (30) days from the date the notice is mailed to the applicant for, or holder of, a certificate unless an IRP is requested. If an IRP is requested, the effective date of the disciplinary action shall be thirty (30) days from the date the notification is mailed to the applicant for, or holder of, a certificate of the medical director's final decision following the IRP. The statement shall include the signature of the medical director, the date signed, and the location where the statement was signed.

NOTE: Authority cited: Sections 1797.107, 1797.176 and 1798.204, Health and Safety Code. Reference: Sections 1797.176, 1797.202, 1797.220, 1798, 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. New section filed 5–3–88; operative 6–2–88 (Register 88, No. 19).
2. Relocation of article 4 heading from section 100223 to section 100212, repealer of former section 100212 and renumbering of former section 100223 to section 100212, including amendment of section heading, section and NOTE, filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

§ 100213. Immediate Suspension.

(a) A medical director may immediately suspend a certificate if, in the opinion of the medical director, immediate suspension is necessary to ensure the public health and safety.

(b) Prior to or concurrent with initiation of an immediate suspension of a certificate, the certificate holder and his/her relevant employer(s), shall be notified as specified in Section 100217 of this chapter. The notice shall be served by certified mail or in person.

(c) An individual whose certificate has been immediately suspended may request an IRP, if an IRP was not held prior to the immediate suspension. Such a request must be made in writing to the medical director and sent by certified mail within fifteen (15) days from the date written notification of the immediate suspension is received.

(d) In addition to the provisions of this section, the IRP convened to review the case for an immediate suspension shall operate pursuant to the requirements, with the exception of the time frames, for an IRP described in Section 200211 of this chapter.

(e) Within fourteen (14) days of receipt of the certificate holder's request, the medical director shall convene an IRP to review the facts which prompted the immediate suspension of the individual's certificate.

(f) The medical director shall present evidence for review by the IRP that prompted the immediate suspension.

(g) within seven (7) days of the IRP review of the facts which prompted the immediate suspension, the certificate holder shall be notified, by certified mail, of the IRP's findings and recommendation and the medical director's decision regarding continuation of the suspension.

NOTE: Authority cited: Sections 1797.107, 1797.176 and 1798.204, Health and Safety Code. Reference: Sections 1797.90, 1797.160, 1797.176, 1797.202, 1797.220, 1798, 1798.100, 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. New section filed 5–3–88; operative 6–2–88 (Register 88, No. 19).
2. Renumbering of former section 100213 to section 100206 and renumbering of former section 100220 to section 100213, including amendment of section and NOTE, filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

§ 100214. Placement of a Certificate Holder on Probation.

Pursuant to Section 100207, the medical director may place a certificate holder on probation any time an infraction or performance deficiency occurs which indicates a need to monitor the individual's conduct in the EMS system in order to protect the public health and safety. The term of the probation and any conditions, such as satisfactory completion of remedial training, shall be determined by the medical director based on the facts of the case. The individual's performance shall be reviewed periodically during the probationary period, in accordance with local EMS agency policies and procedures.

NOTE: Authority cited: Sections 1797.107, 1797.176 and 1798.204, Health and Safety Code. Reference: Sections 1797.176, 1797.202, 1797.220, 1798, 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 100224 to section 100214 filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

§ 100215. Suspension of a Certificate.

(a) The medical director may suspend an individual's EMT–I or EMT–II certificate for a specified period of time for actions listed in Section 1798.200(c) of Division 2.5 in order to protect the public health and safety.

(b) The term of the suspension and any conditions for reinstatement, such as satisfactory completion of remedial training, shall be determined by the medical director based on the facts of the case.

(c) Upon the expiration of the term of suspension, the individual's certificate shall be reinstated if all conditions for reinstatement have been met. If the conditions for reinstatement have not been met, or the individual cannot demonstrate that s/he retains the necessary knowledge and skills or it can be proven the individual practiced emergency medical care, pursuant to the certificate under suspension, during the term of suspension, the medical director shall continue the suspension until all conditions for reinstatement have been met may begin proceedings for further disciplinary action.

(d) If the suspension period will run past the expiration date of the certificate, the individual must meet the recertification requirements for certificate renewal prior to the expiration date of the certificate.

NOTE: Authority cited: Sections 1797.107, 1797.175, 1797.176 and 1798.204, Health and Safety Code. Reference: Sections 1797.176, 1797.202, 1797.220, 1798, 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. New section filed 5–3–88; operative 6–2–88 (Register 88, No. 19).
2. Relocation of article 2 heading from section 100215 to secction 100207, renumbering of former section 100215 to section 100207 and renumbering of former section 100225 to section 100215, including amendment of section heading and section, filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

§ 100216. Denial or Revocation of a Certificate.

(a) The medical director may deny or revoke any EMT–I or EMT–II certificate for any actions listed in Section 1798.200(c) of Division 2.5.

(b) The medical director of a local EMS agency may deny an application for a certificate from any person whose certificate has been denied or revoked for any actions listed in Section 1798.200(c) of Division 2.5, unless that person submits documentation which, in the opinion of the medical director, demonstrates that the threat to the public health and safety, which was the basis for the denial or revocation, is no longer applicable.

(c) Any person who has ever had a certificate or authorization or other health care certificate or license denied or revoked for any actions listed in Section 1798.200(c) of Division 2.5 shall report that denial or revocation at any time s/he applies for any certificate. Failure to report may be grounds for denial, suspension or revocation of a certificate.

NOTE: Authority cited: Sections 1797.107, 1797.176 and 1798.204, Health and Safety Code. Reference: Sections 1797.176, 1797.202, 1797.220, 1798, 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. New section filed 5–3–88; operative 6–2–88 (Register 88, No. 19).
2. Repealer of former section 100216 and renumbering of former section 100226 to section 100216, including amendment of section heading and section, filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

§ 100217. Notification of Action.

(a) For all action other than an immediate suspesnion, the medical director shall notify the applicant/certificate holder and his/her relevant employer(s) of the disciplinary action within ten (10) days after making the final determination of what that action shall be.

(b) The notification shall be served by certified mail or in person and shall include the following information:

(1) the specific allegations or evidence which resulted in the disciplinary action;

(2) a summary of the findings of the investigation, including the findings and recommendation of the IRP, if one was convened;

(3) the disciplinary action(s) to be taken, and the effective date(s) of the action(s), including the duration of the action(s);

(4) which certificate(s) the action applies to in cases of multiple certificate holders;

(5) a statement that the certificate holder must report the disciplinary action to any other local EMS agency in whose jurisdiction s/he uses the certificate;

(6) if the certificate holder has been placed on probation, a statement that, during the probationary period, the certificate holder must report the probation if s/he applies for certification or accreditation from another certifying authority or local EMS agency;

(7) if the certificate has been suspended, a statement that the certificate holder must report that suspension if s/he applies for any certification or accreditation from another certifying authority or local EMS agency; or

(8) if the certificate has been denied or revoked, a statement that s/he must report that action if s/he applies for any certification or accreditation from another certifying authority or local EMS agency, and that his/her application may be denied unless s/he presents documentation which, in the opinion of the medical director of the local EMS agency, demonstrates that the threat to the public health and safety which was the basis for the denial or revocation is no longer applicable;

(9) within fifteen (15) days of receipt of the final decision, the individual's right to file with the local EMS agency, in writing and by certified mail, a response to the final decision in which the individual may:

(A) concur with the disciplinary action; or

(B) request an IRP review of the disciplinary action if no IRP was convened.

(10) information on the IRP process, a copy of this chapter, and a copy of any local policies and procedures developed for local implementation of this chapter.

NOTE: Authority cited: Sections 1797.107, 1797.176 and 1798.204, Health and Safety Code. Reference: Sections 1797.160, 1797.176, 1797.202, 1797.220, 1798, 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. New section filed 5–3–88; operative 6–2–88 (Register 88, No. 19).
2. Renumbering of former section 100217 to section 100209 and renumbering and amendment of former section 100227 to section 100217 filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

Article 5. Local Responsibilities

§ 100218. Development of Local Policies and Procedures.

(a) Each local EMS agency shall develop and adopt policies and procedures for local implementation of the provisions herein. All local policies and procedures so adopted must be in accordance with these provisions and must address all of the requirements of this chapter.

(b) After the adoption of local policies and procedures for the implementation of the provisions herein, the local EMS agency shall submit a copy of those policies and procedures, and any subsequent revisions to the policies and procedures, to the EMS Authority. The EMS Authority shall review the policies and procedures to verify that policies adopted address all of the requirements and are in accordance with the provisions of this chapter. The EMS Authority will advice the local EMS agency of the results of the review.

NOTE: Authority cited: Sections 1797.107, 1797.176 and 1798.204, Health and Safety Code. Reference: Sections 1797.176, 1797.202, 1797.220, 1798. 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. New section filed 5–3–88; operative 6–2–88 (Register 88, No. 19).
2. Relocation of article 5 heading from section 100228 to 100218 and renumbering and amendment of former section 100228 to section 100218 filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

§ 100219. Evaluation of Information.

NOTE: Authority cited: Sections 1797.107, 1797.176 and 1798.204, Health and Safety Code. Reference: Sections 1797.90, 1797.176, 1797.202, 1797.220, 1798, 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. New section filed 5–3–88; operative 6–2–88 (Register 88, No. 19).
2. Relocation of article 3 heading from section 100219 to section 100210 and renumbering former section 100219 to section 100210 filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

§ 100220. Immediate Suspension.

NOTE: Authority cited: Sections 1797.107, 1797.176 and 1798.204, Health and Safety Code. Reference: Sections 1797.90, 1797.160, 1797.176, 1797.202, 1797.220, 1798, 1798.2, 1798.100, 1798.102, 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. New section filed 5–3–88; operative 6–2–88 (Register 88, No. 19).
2. Renumbering of former section 100220 to section 100213 filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

§ 100221. Notification of Formal Investigation.

NOTE: Authority cited: Sections 1797.107, 1797.176 and 1798.204, Health and Safety Code. Reference: Sections 1797.90, 1797.160, 1797.176, 1797.202, 1797.220, 1798, 1798.200 and 1798.204. Health and Safety Code.

HISTORY

1. New section filed 5–3–88; operative 6–2–88 (Register 88, No. 19).
2. Repealer filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

§ 100222. Use of an Investigative Review Panel (IRP) When Suspension, Revocation, Denial, or Denial of Renewal of a Certificate May Occur.

NOTE: Authority cited: Sections 1797.107, 1797.176 and 1798.204, Health and Safety Code. Reference: Sections 1797.90, 1797.160, 1797.176, 1797.202, 1797.220, 1798, 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. New section filed 5–3–88; operative 6–2–88 (Register 88, No. 19).
2. Renumbering of former section 100222 to section 100211 filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

§ 100223. Determination of Appropriate Action by Medical Director.

NOTE: Authority cited: Sections 1797.107, 1797.176 and 1798.204, Health and Safety Code. Reference: Sections 1797.176, 1797.202, 1797.220, 1798, 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. New section filed 5–3–88; operative 6–2–88 (Register 88, No. 19).
2. Relocation of article 4 heading from section 100223 to section 100212 and renumbering former section 100223 to section 100212 filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

§ 100224. Placement of a Certificate Holder on Probation.

NOTE: Authority cited: Sections 1797.107, 1797.176 and 1798.204, Health and Safety Code. Reference: Sections 1797.176, 1797.202, 1797.220, 1798, 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. New section filed 5–3–88; operative 6–2–88 (Register 88, No. 19).
2. Renumbering of former section 100224 to section 100214 filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

§ 100225. Suspension of a Prehospital Emergency Medical Care Certificate.

NOTE: Authority cited: Sections 1797.107, 1797.175, 1797.176 and 1798.204, Health and Safety Code. Reference: Sections 1797.176, 1797.202, 1797.220, 1798, 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. New section filed 5–3–88; operative 6–2–88 (Register 88, No. 19).
2. Renumbering of former section 100225 to section 100215 filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

§ 100226. Revocation, Denial, or Denial of Renewal of a Prehospital Emergency Medical Care Certificate.

NOTE: Authority cited: Sections 1797.107, 1797.176 and 1798.204, Health and Safety Code. Reference: Sections 1797.176, 1797.202, 1797.220, 1798. 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. New section filed 5–3–88; operative 6–2–88 (Register 88, No. 19).
2. Renumbering of former section 100226 to section 100216 filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

§ 100227. Notification of Action.

NOTE: Authority cited: Sections 1797.107, 1797.176 and 1798.204, Health and Safety Code. Reference: Sections 1797.160, 1797.176, 1797.202, 1797.220, 1798, 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. New section filed 5–3–88; operative 6–2–88 (Register 88, No. 19).
2. Renumbering of former section 100227 to section 100217 filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

§ 100228. Development of Local Policies and Procedures.

NOTE: Authority cited: Sections 1797.107, 1797.176 and 1798.204, Health and Safety Code. Reference: Sections 1797.176, 1797.202, 1797.220, 1798. 1798.200 and 1798.204, Health and Safety Code.

HISTORY

1. New section filed 5–3–88; operative 6–2–88 (Register 88, No. 19).
2. Relocation of article 5 heading from section 100228 to section 100218 and renumbering of former section 100228 to section 100218 filed 2–2–2000; operative 3–3–2000 (Register 2000, No. 5).

Chapter 7. Trauma Care Systems

Article 1. Definitions

§ 100236. Abbreviated Injury Scale.

"Abbreviated Injury Scale" or "AIS" is an anatomic severity scoring system. For the purposes of data sharing, the standard to be followed is AIS 90. For the purpose of volume performance measurement auditing, the standard to be followed is AIS 90 using AIS code derived or computer derived scoring.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Section 1798.161, Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.
2. Repealer and new section filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

§ 100237. Immediately Available.

"Immediately" or "immediately available" means:

(a) unencumbered by conflicting duties or responsibilities;

(b) responding without delay when notified; and

(c) being physically available to the specified area of the trauma center when the patient is delivered in accordance with local EMS agency policies and procedures.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Section 1798.161, Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.
2. Repealer of section 100237 and renumbering and amendment of former section 100238 to section 100237 filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

§ 100238. Implementation.

"Implementation" or "implemented" or "has implemented" means the development and activation of a trauma care system plan by a local EMS agency, including the actual triage, transport, and treatment of trauma patients in accordance with the plan.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Section 1798.161, Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.
2. Renumbering of former section 100238 to section 100237 and renumbering and amendment of former section 100239 to section 100238 filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

[The next page is 1407.]

§ 100239. Injury Severity Score.

"Injury Severity Score" or "ISS" means the sum of the squares of the Abbreviated Injury Scale score of the three most severely injured body regions.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Section 1798.161, Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.
2. Renumbering of former section 100239 to section 100238 and new section 100239 filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

§ 100240. On–Call.

"On–call" means agreeing to be available to respond to the trauma center in order to provide a defined service.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Section 1798.161, Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.
2. Repealer of former section 100240 and renumbering of former section 100241 to section 100240 filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

§ 100241. Promptly Available.

"Promptly" or "promptly available" means

(a) responding without delay when notified and requested to respond to the hospital; and

(b) being physically available to the specified area of the trauma center within a period of time that is medically prudent and in accordance with local EMS agency policies and procedures.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Section 1798.161, Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.
2. Renumbering of former section 100241 to section 100240 and renumbering and amendment of former section 100243 to section 100241 filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

§ 100242. Qualified Specialist.

(a) "Qualified specialist" or "qualified surgical specialist" or "qualified non–surgical specialist" means a physician licensed in California who is board certified in a specialty by the American Board of Medical Specialties, the Advisory Board for Osteopathic Specialities, a Canadian board or other appropriate foreign specialty board as determined by the American Board of Medical Specialties for that specialty.

(b) A non–board certified physician may be recognized as a "qualified specialist" by the local EMS agency upon substantiation of need by a trauma center if:

(1) the physician can demonstrate to the appropriate hospital body and the hospital is able to document that he/she has met requirements which are equivalent to those of the Accreditation Council for Graduate Medical Education (ACGME) or the Royal College of Physicians and Surgeons of Canada;

(2) the physician can clearly demonstrate to the appropriate hospital body that he/she has substantial education, training, and experience in treating and managing trauma patients which shall be tracked by the trauma quality improvement program; and

(3) the physician has successfully completed a residency program.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Section 1798.161, Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.
2. Repealer of former section 100242 and renumbering and amendment of former section 100244 to section 100242 filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

§ 100243. Receiving Hospital.

"Receiving hospital" means a licensed general acute care hospital with a special permit for basic or comprehensive emergency service, which has not been designated as a trauma center according to this Chapter, but which has been formally assigned a role in the trauma care system by the local EMS agency. In rural areas, the local EMS agency may approve standby emergency service if basic or comprehensive services are not available.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Section 1798.161, Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.
2. Renumbering of former section 100243 to section 100241 and renumbering and amendment of former section 100245 to section 100243 filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

§ 100244. Residency Program.

"Residency program" means a residency program of the trauma center or a residency program formally affiliated with a trauma center where senior residents can participate in educational rotations, which has been approved by the appropriate Residency Review Committee of the Accreditation Council on Graduate Medical Education.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Section 1798.161, Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.
2. Renumbering of former section 100244 to section 100242 and renumbering and amendment of former section 100246 to section 100244 filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

§ 100245. Senior Resident.

"Senior resident" or "senior level resident" means a physician, licensed in the State of California, who has completed at least three (3) years of the residency or is in their last year of residency training and has the capability of initiating treatment and who is in training as a member of the residency program as defined in Section 100244 of this Chapter, at the designated trauma center.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Section 1798.161, Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.
2. Renumbering of former section 100245 to section 100243 and renumbering and amendment of former section 100247 to section 100245 filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

§ 100246. Service Area.

"Service area" means that geographic area defined by the local EMS agency in its trauma care system plan as the area served by a designated trauma center.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Section 1798.161, Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.
2. Renumbering of former section 100246 to section 100244 and renumbering and amendment of former section 100248 to section 100246 filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

§ 100247. Trauma Care System.

"Trauma care system" or "trauma system" or "inclusive trauma care system" means a system that is designed to meet the needs of all injured patients. The system shall be defined by the local EMS agency in its trauma care system plan as described in Section 100256 of this Chapter.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Sections 1798.160 and 1798.161, Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.
2. Renumbering of former section 100247 to section 100245 and renumbering and amendment of former section 100249 to section 100247 filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

§ 100248. Trauma Center.

"Trauma center" or "designated trauma center" means a licensed hospital, accredited by the Joint Commission on Accreditation of Healthcare Organizations, which has been designated as a Level I, II, III, or IV trauma center and/or Level I or II pediatric trauma center by the local EMS agency, in accordance with Articles 2 through 5 of this Chapter.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Sections 1798.160 and 1798.161, Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.

2. Renumbering of former section 100248 to section 100246 and renumbering and amendment of former section 100250 to section 100248 filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

§ 100249. Trauma Resuscitation Area.

"Trauma Resuscitation Area" means a designated area within a trauma center where trauma patients are evaluated upon arrival.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Section 1798.161, Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.
2. Renumbering of former section 100249 to section 100247 and renumbering and amendment of section heading and section of former section 100251 to section 100249 filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

§ 100250. Trauma Service.

A "trauma service" is a clinical service established by the organized medical staff of a trauma center that has oversight and responsibility of the care of the trauma patient. It includes, but is not limited to, direct patient care services, administration, and as needed, support functions to provide medical care to injured persons.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Section 1798.161, Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.
2. Renumbering of former section 100250 to section 100248 and new section 100250 filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

§ 100251. Trauma Team.

"Trauma team" means the multidisciplinary group of personnel who have been designated to collectively render care for trauma patients at a designated trauma center. The trauma team consists of physicians, nurses and allied health personnel. The composition of the trauma team may vary in relationship to trauma center designation level and severity of injury which leads to trauma team activation.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Section 1798.161, Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.
2. Renumbering of former section 100251 to section 100249 and renumbering and amendment of former section 100252 to section 100251 filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

§ 100252. Triage Criteria.

"Triage criteria" means a measure or method of assessing the severity of a person's injuries that is used for patient evaluation and that utilizes anatomic considerations, physiologic and/or mechanism of injury.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Section 1798.161, Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.
2. Renumbering of former section 100252 to section 100251 and renumbering and amendment of former section 100253 to section 100252 filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

Article 2. Local EMS Agency Trauma System Requirements

§ 100253. Application of Chapter.

(a) A local EMS agency which has implemented or plans to implement a trauma care system shall develop a written trauma care system plan that includes policies and/or procedures to assure compliance of the trauma system with the provisions of this Chapter.

(b) A local EMS agency may specify additional requirements in addition to those specified in this Chapter.

(c) A local EMS agency that implements a trauma care system on or after the effective date of this Chapter shall submit its trauma system plan to the EMS Authority and have it approved prior to implementation.

(d) A local EMS agency that has implemented a trauma system prior to the effective date of the revisions to this Chapter shall submit its updated trauma system plan to the EMS Authority within two (2) years of the effective date of the revisions to this Chapter, which is August 12, 1999.

(e) The EMS Authority shall notify the local EMS agency submitting its trauma care system plan within fifteen (15) days of receiving the plan that:

(1) its plan has been received, and

(2) it contains or does not contain the information requested in Section 100255 of this Chapter.

(f) The EMS Authority shall:

(1) notify the local EMS agency either of approval or disapproval of its trauma system plan within sixty (60) days of receipt of the plan; and

(2) provide written notification of approval or the reasons for disapproval of a trauma system plan.

(g) If the EMS Authority disapproves a trauma system plan, the local EMS agency shall have six (6) months from the date of notification of the disapproval to submit a revised trauma system plan which conforms to this Chapter or to appeal the decision to the Commission on Emergency Medical Services (EMS) which shall make a determination within four (4) months of receipt of the appeal. If a revised trauma system plan is approved by the EMS Authority, the local EMS agency shall begin implementation of the plan within six (6) months of its approval.

(h) If the EMS Authority determines that a local EMS agency has failed to implement the trauma system in accordance with the approved plan, the approval of the plan may be withdrawn. The local EMS agency may appeal the decision to the Commission on EMS, which shall make a determination within six (6) months of the appeal.

(i) After approval of a trauma system plan, the local EMS agency shall submit to the EMS Authority for approval any significant changes to that trauma system plan prior to the implementation of the changes. In those instances where a delay in approval would adversely impact the current level of trauma care, the local EMS agency may institute the changes and then submit the changes to the EMS Authority for approval within thirty (30) days of their implementation.

(j) The local EMS agency shall submit a trauma system status report as part of its annual EMS Plan update. The report shall address, at a minimum, the status of trauma plan goals and objectives.

(k) No health care facility shall advertise in any manner or otherwise hold themselves out to be a trauma center unless they have been so designated by the local EMS agency, in accordance with this Chapter.

(*l*) No provider of prehospital care shall advertise in any manner or otherwise hold themselves out to be affiliated with the trauma system or a trauma center unless they have been so designated by the local EMS agency, in accordance with this Chapter.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Sections 1798.257, 1798.161, 1798.163 and 1798.166, Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.
2. Renumbering of former section 100253 to section 100252 and renumbering and amendment of former section 100254 to section 100253, including amendment and repositioning of article 2 heading to precede section 100253, filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

§ 100254. Trauma System Criteria.

(a) A local EMS agency that plans to implement or modify a trauma system shall include with the trauma plan, a description of the rationale used for trauma system design planning for number and location of trauma centers including:

(1) projected trauma patient volume and projected number and level of trauma centers necessary to provide access to trauma care;

(A) No more than one (1) Level I or Level II trauma center shall be designated for each 350,000 population within the service area.

(B) Where geography and population density preclude compliance with subsection (a)(1)(A), exemptions may be granted by the EMS Authority with the concurrence of the Commission on EMS on the basis of documented local needs.

(2) resource availability to meet staffing requirements for trauma centers;

(3) transport times;
(4) distinct service areas; and
(5) coordination with neighboring trauma systems.

(b) The local EMS agency may authorize the utilization of air transport within its jurisdiction to geographically expand the primary service area(s) provided that the expanded service area does not encroach upon another trauma system, or that of another trauma center, unless written agreements have been executed between the involved local EMS agencies and/or trauma centers.

(c) A local EMS agency may require trauma centers to have helicopter landing sites. If helicopter landing sites are required, then they shall be approved by the Division of Aeronautics, Department of Transportation pursuant to Division 2.5, Title 21 of the California Code of Regulations.

(d) All prehospital emergency medical care personnel rendering trauma patient care within an organized trauma system shall be trained in the local trauma triage and patient care methodology.

(e) All trauma patient transport vehicles shall be equipped with two-way telecommunications equipment capable of accessing hospitals, in accordance with local EMS agency policies regarding communication.

(f) All prehospital providers shall have a policy approved by the local EMS agency for the early notification of trauma centers of the impending arrival of a trauma patient.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Sections 1798.161, 1798.162, 1798.163, 1798.165 and 1798.166 of the Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.
2. Renumbering of former section 100254 to section 100253, including repositioning of article 2 heading to precede section 100253 and renumbering and amendment of former section 100255 to section 100254, filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

§ 100255. Policy Development.

A local EMS agency planning to implement a trauma system shall develop policies which provide a clear understanding of the structure of the trauma system and the manner in which it utilizes the resources available to it. The trauma system policies shall address at least the following:

(a) system organization and management;
(b) trauma care coordination within the trauma system;
(c) trauma care coordination with neighboring jurisdictions, including EMS agency/system agreements;
(d) data collection and management;
(e) fees, including those for application, designation and redesignation, monitoring and evaluation;
(f) establishment of service areas for trauma centers;
(g) trauma center designation/redesignation process to include a written agreement between the local EMS agency and the trauma center;
(h) coordination with all health care organizations within the trauma system to facilitate the transfer of an organization member in accordance with the criteria set forth in Article 5 of this Chapter;
(i) coordination of EMS and trauma system for transportation including intertrauma center transfer and transfers from a receiving hospital to a trauma center;
(j) the integration of pediatric hospitals, if applicable;
(k) trauma center equipment;
(l) ensuring the availability of trauma team personnel;
(m) criteria for activation of trauma team;
(n) mechanism for prompt availability of specialists;
(o) quality improvement and system evaluation to include responsibilities of the multidisciplinary trauma peer review committee;
(p) criteria for pediatric and adult trauma triage, including destination;
(q) training of prehospital EMS personnel to include trauma triage;
(r) public information and education about the trauma system;
(s) marketing and advertising by trauma centers and prehospital providers as it relates to the trauma care system; and
(t) coordination with public and private agencies and trauma centers in injury prevention programs.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Sections 1798.161 and 1798.163, Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.
2. Renumbering of former section 100255 to section 100254 and renumbering and amendment of former section 100256 to section 100255 filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

§ 100256. Trauma Plan Development.

(a) The initial plan for a trauma care system that is submitted to the EMS Authority shall be comprehensive with objectives that shall be clearly stated. The initial trauma care system plan shall contain at least the following:

(1) Summary of the plan;
(2) organizational structure;
(3) needs assessment;
(4) inclusive trauma system design, which includes those facilities involved in the care of acutely injured patients, including coordination with neighboring agencies;
(5) documentation that any intercounty trauma center agreements have been approved by the EMS agencies of both counties;
(6) objectives;
(7) implementation schedule;
(8) fiscal impact of the system;
(9) policy and plan development process;
(10) written documentation of local approval; and
(11) table of contents identifying where the information in this Section and Sections 100254, 100255 and 100257 of this Chapter can be found in the plan.

(b) The system design shall address the operational implementation of the policies developed pursuant to Section 100255 and the following aspects of hospital service delivery:

(1) Critical care capability including but not limited to burns, spinal cord injury, rehabilitation and pediatrics;
(2) medical organization and management; and
(3) quality improvement.

(c) A local EMS agency shall advise the EMS Authority when there are changes or revisions in policy or plan development pursuant to the sections of this Article.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Sections 1797.258, 1798.161 and 1798.166, Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.
2. Renumbering of former section 100256 to section 100255 and renumbering and amendment of section heading and section of former section 100257 to section 100256 filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

§ 100257. Data Collection.

(a) The local EMS agency shall develop and implement a standardized data collection instrument and implement a data management system for trauma care.

(1) The system shall include the collection of both prehospital and hospital patient care data, as determined by the local EMS agency;
(2) trauma data shall be integrated into the local EMS agency and State EMS Authority data management system; and
(3) all hospitals that receive trauma patients shall participate in the local EMS agency data collection effort in accordance with local EMS agencies policies and procedures.

(b) The prehospital data shall include at least those data elements required on the EMT–II or EMT–P patient care record, as specified in Section 100129 of the EMT–II regulations and Section 100176 of the EMT–P regulations.

(c) The hospital data shall include at least the following, when applicable:

(1) Time of arrival and patient treatment in:
(A) Emergency department or trauma receiving area; and
(B) operating room.
(2) Dates for:
(A) Initial admission;

(B) intensive care; and
(C) discharge.
(3) Discharge data, including:
(A) Total hospital charges (aggregate dollars only);
(B) patient destination; and
(C) discharge diagnosis.
(4) The local EMS agency shall provide periodic reports to all hospitals participating in the trauma system.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Section 1798.161, Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.
2. Renumbering of former section 100257 to section 100256 and renumbering and amendment of former section 100258 to section 100257 filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

§ 100258. Trauma System Evaluation.

(a) The local EMS agency shall be responsible for the development and ongoing evaluation of the trauma system.
(b) The local EMS agency shall be responsible for the development of a process to receive information from EMS providers, participating hospitals and the local medical community on the evaluation of the trauma system, including but not limited to:
(1) trauma plan;
(2) triage criteria;
(3) activation of trauma team; and
(4) notification of specialists.
(c) The local EMS agency shall be responsible for periodic performance evaluation of the trauma system, which shall be conducted at least every two (2) years. Results of the trauma system evaluation shall be made available to system participants.
(d) The local EMS agency shall be responsible for ensuring that trauma centers and other hospitals that treat trauma patients participate in the quality improvement process contained in Section 100265.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Section 1798.161, Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.
2. Renumbering of former section 100258 to section 100257 and renumbering and amendment of former section 100259 to section 100258 filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

Article 3. Trauma Center Requirements

§ 100259. Level I and Level II Trauma Centers.

(a) A Level I or II trauma center is a licensed hospital which has been designated as a Level I or II trauma center by the local EMS agency. While both Level I and II trauma centers are similar, a Level I trauma center is required to have staff and resources not required of a Level II trauma center. The additional Level I requirements are located in Section 100260. Level I and II trauma centers shall have appropriate pediatric equipment and supplies and be capable of initial evaluation and treatment of pediatric trauma patients. Trauma centers without a pediatric intensive care unit, as outlined in (e)(1) of this section, shall establish and utilize written criteria for consultation and transfer of pediatric patients needing intensive care. A Level I or Level II trauma center shall have at least the following:
(1) A trauma program medical director who is a board–certified surgeon, whose responsibilities include, but are not limited to, factors that affect all aspects of trauma care such as:
(A) recommending trauma team physician privileges;
(B) working with nursing and administration to support the needs of trauma patients;
(C) developing trauma treatment protocols;
(D) determining appropriate equipment and supplies for trauma care;
(E) ensuring the development of policies and procedures to manage domestic violence, elder and child abuse and neglect;
(F) having authority and accountability for the quality improvement peer review process;
(G) correcting deficiencies in trauma care or excluding from trauma call those trauma team members who no longer meet standards;
(H) coordinating pediatric trauma care with other hospital and professional services;
(I) coordinating with local and State EMS agencies;
(J) assisting in the coordination of the budgetary process for the trauma program; and
(K) identifying representatives from neurosurgery, orthopaedic surgery, emergency medicine, pediatrics and other appropriate disciplines to assist in identifying physicians from their disciplines who are qualified to be members of the trauma program.
(2) A trauma nurse coordinator/manager who is a registered nurse with qualifications including evidence of educational preparation and clinical experience in the care of the adult and/or pediatric trauma patient, administrative ability, and responsibilities that include but are not limited to:
(A) organizing services and systems necessary for the multidisciplinary approach to the care of the injured patient;
(B) coordinating day–to–day clinical process and performance improvement as it pertains to nursing and ancillary personnel; and
(C) collaborating with the trauma program medical director in carrying out the educational, clinical, research, administrative and outreach activities of the trauma program.
(3) A trauma service which can provide for the implementation of the requirements specified in this Section and provide for coordination with the local EMS agency.
(4) A trauma team, which is a multidisciplinary team responsible for the initial resuscitation and management of the trauma patient.
(5) Department(s), division(s), service(s) or section(s) that include at least the following surgical specialities, which are staffed by qualified specialists:
(A) general;
(B) neurologic;
(C) obstetric/gynecologic;
(D) opthalmologic;
(E) oral or maxillofacial or head and neck;
(F) orthopaedic;
(G) plastic; and
(H) urologic
(6) Department(s), division(s), service(s) or section(s) that include at least the following non–surgical specialities, which are staffed by qualified specialists:
(A) anesthesiology;
(B) internal medicine;
(C) pathology;
(D) psychiatry; and
(E) radiology;
(7) An emergency department, division, service or section staffed with qualified specialists in emergency medicine who are immediately available.
(8) Qualified surgical specialist(s) or specialty availability, which shall be available as follows:
(A) general surgeon capable of evaluating and treating adult and pediatric trauma patients shall be immediately available for trauma team activation and promptly available for consultation;
(B) On–call and promptly available:
1. neurologic;
2. obstetric/gynecologic;
3. ophthalmologic;
4. oral or maxillofacial or head and neck;
5. orthopaedic;
6. plastic;
7. reimplantation/microsurgery capability. This surgical service may be provided through a written transfer agreement; and

8. urologic.

(C) Requirements may be fulfilled by supervised senior residents as defined in Section 100245 of this Chapter who are capable of assessing emergent situations in their respective specialties.

When a senior resident is the responsible surgeon:

1. the senior resident shall be able to provide the overall control and surgical leadership necessary for the care of the patient, including initiating surgical care;

2. a staff trauma surgeon or a staff surgeon with experience in trauma care shall be on-call and promptly available;

3. a staff trauma surgeon or a staff surgeon with experience in trauma care shall be advised of all trauma patient admissions, participate in major therapeutic decisions, and be present in the emergency department for major resuscitations and in the operating room for all trauma operative procedures.

(D) Available for consultation or consultation and transfer agreements for adult and pediatric trauma patients requiring the following surgical services;

1. burns;

2.. cardiolthoracic;

3. pediatric;

4. reimplantation/microsurgery; and

5. spinal cord injury.

(9) Qualified non-surgical specialist(s) or specialty availability, which shall be available as follows:

(A) Emergency medicine, in-house and immediately available at all times. This requirement may be fulfilled by supervised senior residents, as defined in Section 100245 of this Chapter, in emergency medicine, who are assigned to the emergency department and are serving in the same capacity. In such cases, the senior resident(s) shall be capable of assessing emergency situations in trauma patients and of providing for initial resuscitation. Emergency medicine physicians who are qualified specialists in emergency medicine and are board certified in emergency medicine shall not be required by the local EMS agency to complete an advanced trauma life support (ATLS) course. Current ATLS verification is required for all emergency medicine physicians who provide emergency trauma care and are qualified specialists in a specialty other than emergency medicine.

(B) Anesthesiology. Level II shall be promptly available with a mechanism established to ensure that the anesthesiologist is in the operating room when the patient arrives. This requirement may be fulfilled by senior residents or certified registered nurse anesthetists who are capable of assessing emergent situations in trauma patients and of providing any indicated treatment and are supervised by the staff anesthesiologist. In such cases, the staff anesthesiologist on-call shall be advised about the patient, be promptly available at all times, and be present for all operations.

(C) Radiology, promptly available; and

(D) Available for consultation:

1. cardiology;

2. gastroenterology;

3. hematology;

4. infectious diseases;

5. internal medicine;

6. nephrology;

7. neurology;

8. pathology; and

9. pulmonary medicine.

(b) In addition to licensure requirements, trauma centers shall have the following service capabilities:

(1) Radiological service. The radiological service shall have immediately available a radiological technician capable of performing plain film and computed tomography imaging. A radiological service shall have the following additional services promptly available:

(A) angiography; and

(B) ultrasound.

(2) Clinical laboratory service. A clinical laboratory service shall have:

(A) a comprehensive blood bank or access to a community central blood bank; and

(B) clinical laboratory services immediately available.

(3) Surgical service. A surgical service shall have an operating suite that is available or being utilized for trauma patients and that has:

(A) Operating staff who are promptly available unless operating on trauma patients and back-up personnel who are promptly available; and

(B) appropriate surgical equipment and supplies as determined by the trauma program medical director.

(c) A Level I or Level II trauma center shall have a basic or comprehensive emergency service which has special permits issued pursuant to Chapter 1, Division 5 of Title 22. The emergency service shall:

(1) designate an emergency physician to be a member of the trauma team;

(2) provide emergency medical services to adult and pediatric patients; and

(3) have appropriate adult and pediatric equipment and supplies as approved by the director of emergency medicine in collaboration with the trauma program medical director.

(d) In addition to the special permit licensing services, a trauma center shall have, pursuant to Section 70301 of Chapter 1, Division 5 of Title 22 of the California Code of Regulations, the following approved supplemental services:

(1) Intensive Care Service:

(A) the ICU shall have appropriate equipment and supplies as determined by the physician responsible for the intensive care service and the trauma program medical director;

(B) The ICU shall have a qualified specialist promptly available to care for trauma patients in the intensive care unit. The qualified specialist may be a resident with two (2) years of training who is supervised by the staff intensivist or attending surgeon who participates in all critical decision making; and

(C) the qualified specialist in (B) above shall be a member of the trauma team.

(2) Burn Center. This service may be provided through a written transfer agreement with a Burn Center.

(3) Physical Therapy Service. Physical therapy services to include personnel trained in physical therapy and equipped for acute care of the critically injured patient.

(4) Rehabilitation Center. Rehabilitation services to include personnel trained in rehabilitation care and equipped for acute care of the critically injured patient. These services may be provided through a written transfer agreement with a rehabilitation center.

(5) Respiratory Care Service. Respiratory care services to include personnel trained in respiratory therapy and equipped for acute care of the critically injured patient.

(6) Acute hemodialysis capability.

(7) Occupational therapy service. Occupational therapy services to include personnel trained in occupational therapy and equipped for acute care of the critically injured patient.

(8) Speech therapy service. Speech therapy services to include personnel trained in speech therapy and equipped for acute care of the critically injured patient.

(9) Social Service.

(e) A trauma center shall have the following services or programs that do not require a license or special permit.

(1) Pediatric Service. In addition to the requirements in Division 5 of Title 22 of the California Code of Regulations, the pediatric service providing in-house pediatric trauma care shall have:

(A) a pediatric intensive care unit approved by the California State Department of Health Services' California Children Services (CCS); or a written transfer agreement with an approved pediatric intensive care unit. Hospitals without pediatric intensive care units shall establish and utilize

written criteria for consultation and transfer of pediatric patients needing intensive care; and

(B) a multidisciplinary team to manage child abuse and neglect.

(2) Acute spinal cord injury management capability. This service may be provided through a written transfer agreement with a Rehabilitation Center;

(3) Protocol to identify potential organ donors as described in Division 7, Chapter 3.5 of the California Health and Safety Code;

(4) An outreach program, to include:

(A) capability to provide both telephone and on-site consultations with physicians in the community and outlying areas; and

(B) trauma prevention for the general public;

(4) Written interfacility transfer agreements with referring and specialty hospitals;

(5) Continuing education. Continuing education in trauma care shall be provided for:

(A) staff physicians;

(B) staff nurses;

(C) staff allied health personnel;

(D) EMS personnel; and

(E) other community physicians and health care personnel.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Sections 1798.161 and 1798.165, Health and Safety Code.

HISTORY

1. New section filed 9-18-86, operative 10-18-86; Register 86, No. 38.
2. Renumbering of former section 100259 to section 100258 and new article 3 (sections 100259-100264) and section 100259 filed 7-13-99; operative 8-12-99 (Register 99, No. 29).

§ 100260. Additional Level I Criteria.

In addition to the above requirements, a Level I trauma center shall have:

(a) One of the following patient volumes annually:

(1) a minimum of 1200 trauma program hospital admissions, or

(2) a minimum of 240 trauma patients per year whose Injury Severity Score (ISS) is greater than 15, or

(3) an average of 35 trauma patients (with an ISS score greater than 15) per trauma program surgeon per year.

(b) Additional qualified surgical specialists or specialty availability on-call and promptly available:

(1) cardiothoracic; and

(2) pediatrics;

(c) A surgical service that has at least the following:

(1) operating staff who are immediately available unless operating on trauma patients and back-up personnel who are promptly available.

(2) cardiopulmonary bypass equipment: and

(3) operating microscope.

(d) Anesthesiology immediately available. This requirement may be fulfilled by senior residents or certified registered nurse anesthetists who are capable of assessing emergent situations in trauma patients and of providing treatment and are supervised by the staff anesthesiologist.

(e) An intensive care unit with a qualified specialist in-house and immediately available to care for trauma patients in the intensive care unit. The qualified specialist may be a resident with two (2) years of training who is supervised by the staff intensivist or attending surgeon who participates in all critical decision making.

(f) A Trauma research program; and

(g) An ACGME approved surgical residency program.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Sections 1798.161 and 1798.165, Health and Safety Code.

HISTORY

1. New section filed 9-18-86, operative 10-18-86; Register 86, No. 38.
2. Repealer of article 5 (sections 100260-100262) and section and new section filed 7-13-99; operative 8-12-99 (Register 99, No. 29).

§ 100261. Level I and Level II Pediatric Trauma Centers.

(a) A Level I or II pediatric trauma center is a licensed hospital which has been designated as a Level I or II pediatric trauma center by the local EMS agency. While both Level I and II pediatric trauma centers are similar, a Level I pediatric trauma center is required to have staff and resources not required of a Level II pediatric trauma center. The additional Level I requirements for pediatric trauma centers are located in Section 100262. A Level I or Level II pediatric trauma center shall have at least the following:

(1) A pediatric trauma program medical director who is a board-certified surgeon with experience in pediatric trauma care (may also be trauma program medical director for adult trauma services), whose responsibilities include, but are not limited to, factors that affect all aspects of pediatric trauma care such as:

(A) recommending pediatric trauma team physician privileges;

(B) working with nursing and administration to support the needs of pediatric trauma patients;

(C) developing pediatric trauma treatment protocols:

(D) determining appropriate equipment and supplies for pediatric trauma care;

(E) ensuring the development of policies and procedures to manage domestic violence and child abuse and neglect;

(F) having authority and accountability for the pediatric trauma quality improvement peer review process;

(G) correcting deficiencies in pediatric trauma care or excluding from trauma call those trauma team members who no longer meet standards;

(H) coordinating pediatric trauma care with other hospital and professional services;

(I) coordinating with local and State EMS agencies;

(J) assisting in the coordination of the budgetary process for the trauma program; and

(K) identifying representatives from neurosurgery, orthopedic surgery, emergency medicine, pediatrics and other appropriate disciplines to assist in identifying physicians from their disciplines who have pediatric trauma care experience and who are qualified to be members of the pediatric trauma program.

(2) A pediatric trauma nurse coordinator/manager who is a registered nurse with qualifications (may also be trauma nurse coordinator/manager for adult trauma services) including evidence of educational preparation and clinical experience in the care of pediatric trauma patients, administrative ability, and responsibilities that include but are not limited to factors that affect all aspects of pediatric trauma care, including:

(A) organizing services and systems necessary for the multidisciplinary approach to the care of the injured child;

(B) coordinating day-to-day clinical process and performance improvement as it pertains to pediatric trauma nursing and ancillary personnel; and

(C) collaborating with the pediatric trauma program medical director in carrying out the educational, clinical, research, administrative and outreach activities of the pediatric trauma program.

(3) A pediatric trauma service which can provide for the implementation of the requirements specified in this section and provide for coordination with the local EMS agency.

(4) A pediatric trauma team, which is a multidisciplinary team responsible for the initial resuscitation and management of the pediatric trauma patient.

(A) the pediatric trauma team leader shall be a surgeon with pediatric trauma experience as defined by the trauma program medical director;

(B) the remainder of the team shall include physician, nursing and support personnel in sufficient numbers to evaluate, resuscitate, treat and stabilize pediatric trauma patients.

(5) Department(s), division(s), service(s) or section(s) that include at least the following surgical specialists and which are staffed by qualified specialists with pediatric experience:

A. neurologic;

B. obstetric/gynecologic (may be provided through a written transfer agreement with a hospital that has a department, division, service, or section that provides this service);

C. ophthalmologic;

D. oral or maxillofacial or head and neck;
E. orthopaedic;
F. pediatric;
G. plastic;
H. urologic; and
I. microsurgery/reimplantation (may be provided through a written transfer agreement with a hospital that has a department, division, service, or section that provides this service).

(6) Department(s), division(s), service(s), or section(s) that include at least the following non–surgical specialties which are staffed by qualified specialists with pediatric experience:
A. anesthesiology;
B. cardiology;
C. critical care;
D. emergency medicine;
E. gastroenterology;
F. general pediatrics;
G. hematology/oncology;
H. infectious disease;
I. neonatology;
J. nephrology;
K. neurology;
L. pathology;
M. psychiatry;
N. pulmonology;
O. radiology; and
P. rehabilitation/physical medicine. This requirement may be provided through a written agreement with a pediatric rehabilitation center.

(7) An emergency department, division, service or section staffed with qualified specialists in emergency medicine with pediatric trauma experience, who are immediately available.

(8) Qualified surgical specialist(s) or specialty availability, which shall be available as follows:

(A) Pediatric surgeon, capable of evaluating and treating pediatric trauma patients shall be immediately available for trauma team activation and promptly available for consultation. This requirement may be fulfilled by:

1. a staff pediatric surgeon with experience in pediatric trauma care; or

2. a staff trauma surgeon with experience in pediatric trauma care; or

3. a senior general surgical resident who has completed at least three clinical years of surgical residency training. When a senior resident is the responsible surgeon:

a. the senior resident shall be able to provide the overall control and surgical leadership necessary for the care of the patient, including initiating surgical care; and

b. a staff pediatric surgeon with experience in pediatric trauma care or a staff trauma surgeon with experience in pediatric trauma care shall be on–call and promptly available; and

c. a staff pediatric surgeon or a staff surgeon with experience in pediatric trauma care shall participate in major therapeutic decisions, be advised of all pediatric trauma patient admissions and be present in the emergency department for major resuscitations and in the operating room for all trauma operative procedures.

(B) On–call and promptly available with pediatric experience;

1. neurologic;

2. obstetric/gynecologic. This surgical service may be provided through a written transfer agreement;

3. ophthalmologic;

4. oral or maxillofacial or head and neck;

5. orthopaedic;

6. plastic;

7. reimplantation/microsurgery capability. This surgical service may be provided through a written transfer agreement;

8. urologic;

(C) Requirements may be fulfilled by supervised senior residents as defined in Section 100245 of this Chapter who are capable of assessing emergent situations in their respective specialties. When a senior resident is the responsible surgeon:

1. The senior resident shall be able to provide the overall control and surgical leadership necessary for the care of the patient, including initiating surgical care;

2. a staff trauma surgeon or a staff surgeon with experience in trauma care shall be on–call and promptly available;

3. a staff trauma surgeon or a staff surgeon with experience in trauma care shall be advised of all trauma patient admissions, participate in major therapeutic decisions, and be present in the emergency department for major resuscitations and in the operating room for all trauma operative procedures.

(D) Available for consultation or consultation and transfer agreements for pediatric trauma patients requiring the following surgical services;

1. burns;

2. cardiothoracic; and

3. spinal cord injury.

(9) Qualified nonsurgical specialist(s) or specialty availability, which shall be available as follows:

(A) Emergency medicine, in–house and immediately available at all times. This requirement may be fulfilled by a qualified specialist in pediatric emergency medicine; or a qualified specialist in emergency medicine with pediatric experience; or a subspecialty resident in pediatric emergency medicine who has completed at least one year of subspecialty residency education in pediatric emergency medicine. In such cases, the senior resident(s) shall be capable of assessing emergency situations in trauma patients and of providing for initial resuscitation. Emergency medicine physicians who are qualified specialists in emergency medicine and are board certified in emergency medicine or pediatric emergency medicine shall not be required by the local EMS agency to complete an advanced trauma life support course. Current ATLS verification is required for all emergency medicine physicians who provide emergency trauma care and are qualified specialists in a speciality other than emergency medicine. When a senior resident is the responsible emergency physician in–house:

1. a qualified specialist in pediatric emergency medicine, or emergency medicine with pediatric experience shall be promptly available; and

2. the qualified specialist on–call shall be notified of all patients who require resuscitation, operative surgical intervention, or intensive care unit admission.

(B) Anesthesiology, Level II shall be promptly available with a mechanism established to ensure that the anesthesiologist is in the operating room when the patient arrives. This requirement may be fulfilled by a senior resident or certified registered nurse anesthetists with pediatric experience who are capable of assessing emergent situations in pediatric trauma patients and of providing any indicated treatment and are supervised by the staff anesthesiologist. In such cases, the staff anesthesiologist with pediatric experience on–call shall be advised about the patient, be promptly available at all times, and be present for all operations.

(C) Radiology, promptly available; and

(D) Available for consultation or provided through transfer agreement, qualified specialists with pediatric experience:
a. adolescent medicine;
b. child development;
c. genetics/dysmorphology;
d. neuroradiology;
e. obstetrics;
f. pediatric allergy and immunology;
g. pediatric dentistry;
h. pediatric endocrinology;
i. pediatric pulmonology; and
j. rehabilitation/physical medicine.

(E) Pediatric critical care, in–house and immediately available. The in–house requirement may be fulfilled by:

1. a qualified specialist in pediatric critical care medicine; or

2. a qualified specialist in anesthesiology with experience in pediatric critical care;

3. a qualified surgeon with expertise in pediatric critical care; or

4. a physician who has completed at least two years of residency in pediatrics. When a senior resident is the responsible pediatric critical care physician then:

a. a qualified specialist in pediatric critical care medicine, or a qualified specialist in anesthesiology with experience in pediatric critical care, shall be on–call and promptly available; and;

b. the qualified specialist on–call shall be advised about all patients who may require admission to the pediatric intensive care unit and shall participate in all major therapeutic decisions and interventions;

(F) Qualified specialists with pediatric experience shall be on the hospital staff and available for consultation:

1. general pediatrics;
2. mental health;
3. neonatology;
4. nephrology;
5. pathology;
6. pediatric cardiology;
7. pediatric gastroenterology;
8. pediatric hematology/oncology;
9. pediatric infectious disease;
10. pediatric neurology; and
11. pediatric radiology.

(b) In addition to licensure requirements, pediatric trauma centers shall have the following service capabilities:

(1) Radiological service. The radiological service shall have in–house and immediately available a radiological technician capable of performing plain film and computed tomography imaging. A radiological service shall have the following additional services promptly available for children:

(A) angiography; and

(B) ultrasound.

(2) Clinical laboratory service. A clinical laboratory service shall have:

(A) a comprehensive blood bank or access to a community central blood bank; and

(B) clinical laboratory services immediately available with micro sampling capability.

(3) Surgical service. A surgical service shall have an operating suite that is available or being utilized for trauma patients and that has:

(A) Operating staff who are promptly available unless operating on a trauma patient and back up personnel who are promptly available; and

(B) appropriate surgical equipment and supplies as determined by the pediatric trauma program medical director.

(4) Nursing services that are staffed by qualified licensed nurses with education, experience, and demonstrated clinical competence in the care of critically ill and injured children.

(c) A Level I and II pediatric trauma center shall have a basic or comprehensive emergency service which have special permits issued pursuant to Chapter 1, Division 5 of Title 22. The emergency service shall:

(1) designate an emergency physician to be a member of the pediatric trauma team;

(2) provide emergency medical services to pediatric patients; and

(3) have appropriate pediatric equipment and supplies as approved by the director of emergency medicine in collaboration with the trauma program medical director.

(d) In addition to the special permit licensing services, a pediatric trauma center shall have, pursuant to Section 70301 of Chapter 1, Division 5 of Title 22 of the California Code of Regulations, the following approved supplemental services:

(1) Burn Center. This service may be provided through a written transfer agreement with a Burn Center;

(2) Physical Therapy Service. Physical therapy services to include personnel trained in pediatric physical therapy and equipped for acute care of the critically injured child;

(3) Rehabilitation Center. Rehabilitation services to include personnel trained in rehabilitation care and equipped for acute care of the critically injured patient. These services may be provided through a written transfer agreement with a rehabilitation center;

(4) Respiratory Care Service. Respiratory care services to include personnel trained in respiratory therapy and equipped for acute care of the critically injured patient;

(5) Acute hemodialysis capability;

(6) Occupational therapy service. Occupational therapy services to include personnel trained in pediatric occupational therapy and equipped for acute care of the critically injured child;

(7) Speech therapy service. Speech therapy services to include personnel trained in pediatric speech therapy and equipped for acute care of the critically injured child; and

(8) Social Service.

(e) A trauma center shall have the following services or programs that do not require a license or special permit.

(1) A Pediatric Intensive Care Unit (PICU) approved by the California State Department of Health Services California Children Services (CCS).

(A) The PICU shall have appropriate equipment and supplies as determined by the physician responsible for the pediatric intensive care service and the pediatric trauma program medical director;

(B) the pediatric intensive care specialist shall be promptly available to care for trauma patients in the intensive care unit; and

(C) the qualified specialist in (B) above shall be a member of the trauma team.

(2) Acute spinal cord injury management capability. This service may be provided through a written transfer agreement with a Rehabilitation Center;

(3) Protocol to identify potential organ donors as described in Division 7, Chapter 3.5 of the California Health and Safety Code;

(4) An outreach program, to include:

(A) capability to provide both telephone and on–site consultations with physicians in the community and outlying areas;

(B) trauma prevention for the general public;

(C) public education and illness/injury prevention education.

(5) written interfacility transfer agreements with referring and specialty hospitals; and

(6) continuing education. Continuing education in pediatric trauma care shall be provided for:

(A) staff physicians;

(B) staff nurses;

(C) staff allied health personnel;

(D) EMS personnel; and

(E) other community physicians and health care personnel.

(7) In addition to special permit licensing services, a pediatric trauma center shall have:

(A) outreach and injury prevention programs specifically related to pediatric trauma and injury prevention;

(B) a suspected child abuse and neglect team (SCAN);

(C) an aeromedical transport plan with designated landing site; and

(D) Child Life program.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Sections 1798.161 and 1798.165, Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.
2. Repealer and new section filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

§ 100262. Additional Level I Pediatric Trauma Criteria.

In addition to the above requirements, a Level I pediatric trauma center shall have:

(a) A pediatric trauma program medical director who is a board–certified pediatric surgeon, whose responsibilities include, but are not limited to, factors that affect all aspects of pediatric trauma care.

(b) Additional qualified pediatric surgical specialists or specialty availability on–call and promptly available:

(1) cardiothoracic;

(2) pediatric neurologic;

(3) pediatric ophthalmologic;

(4) pediatric oral or maxillofacial or head and neck; and

(5) pediatric orthopaedic,

(c) A surgical service that has at least the following:

(1) operating staff who are immediately available unless operating on trauma patients and back–up personnel who are promptly available.

(2) cardiopulmonary bypass equipment; and

(3) operating microscope.

(d) Additional qualified pediatric non–surgical specialist or specialty availability on–call and promptly available:

(1) pediatric anesthesiology;

(2) pediatric emergency medicine;

(3) pediatric gastroenterology;

(4) pediatric infectious disease;

(5) pediatric nephrology;

(6) pediatric neurology;

(7) pediatric pulmonology; and

(8) pediatric radiology.

(e) the qualified pediatric PICU specialist shall be immediately available, advised about all patients who may require admission to the PICU, and shall participate in all major therapeutic decisions and interventions;

(f) Anesthesiology shall be immediately available. This requirement may be fulfilled by a senior resident or certified registered nurse anaesthetists who are capable of assessing emergent situations in trauma patients and providing treatment and are supervised by the staff anesthesiologist.

(g) Pediatric trauma research program.

(h) Maintain an education rotation with an ACGME approved and affiliated surgical residency program.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Sections 1798.161 and 1798.165, Health and Safety Code.

HISTORY

1. New section filed 9–18–86, operative 10–18–86; Register 86, No. 38.
2. Repealer and new section filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

§ 100263. Level III Trauma Centers.

A Level III trauma center is a licensed hospital which has been designated as a Level III trauma center by the local EMS agency. A Level III trauma center shall include equipment and resources necessary for initial stabilization and personnel knowledgeable in the treatment of adult and pediatric trauma. A Level III trauma center shall have at least the following:

(a) A trauma program medical director who is a qualified surgical specialist, whose responsibilities include, but are not limited to, factors that affect all aspects of trauma care such as:

(1) recommending trauma team physician privileges;

(2) working with nursing administration to support the nursing needs of trauma patients;

(3) developing trauma treatment protocols;

(4) having authority and accountability for the quality improvement peer review process;

(5) correcting deficiencies in trauma care or excluding from trauma call those trauma team members who no longer meet the standards of the quality improvement program; and

(6) assisting in the coordination of budgetary process for the trauma program.

(b) A trauma nurse coordinator/manager who is a registered nurse with qualifications including evidence of educational preparation and clinical experience in the care of adult and/or pediatric trauma patients, administrative ability, and responsibilities that include, but are not limited to:

(1) organizing services and systems necessary for the multidisciplinary approach to the care of the injured patient;

(2) coordinating day–to–day clinical process and performance improvement as pertains to nursing and ancillary personnel, and

(3) collaborating with the trauma program medical director in carrying out the educational, clinical, research, administrative and outreach activities of the trauma program.

(c) A trauma service which can provide for the implementation of the requirements specified in this Section and provide for coordination with the local EMS agency.

(d) The capability of providing prompt assessment, resuscitation and stabilization to trauma patients.

(e) The ability to provide treatment or arrange for transportation to a higher level trauma center as appropriate.

(f) An emergency department, division, service, or section staffed so that trauma patients are assured of immediate and appropriate initial care.

(g) Intensive Care Service:

(1) the ICU shall have appropriate equipment and supplies as determined by the physician responsible for the intensive care service and the trauma program medical director;

(2) the ICU shall have a qualified specialist promptly available to care for trauma patients in the intensive care unit. The qualified specialist may be a resident with two (2) years of training who is supervised by the staff intensivist or attending surgeon who participates in all critical decision making; and

(3) the qualified specialist in (2) above shall be a member of the trauma team;

(h) A trauma team, which will be a multidisciplinary team responsible for the initial resuscitation and management of the trauma patient.

(i) Qualified surgical specialist(s) who shall be promptly available:

(1) general;

(2) orthopedic; and

(3) neurosurgery (can be provided through a transfer agreement)

(j) Qualified non–surgical specialist(s) or speciality availability, which shall be available as follows:

(1) Emergency medicine, in–house and immediately available; and

(2) Anesthesiology, on–call and promptly available with a mechanism established to ensure that the anesthesiologist is in the operating room when the patient arrives. This requirement may be fulfilled by senior residents or certified registered nurse anesthetists who are capable of assessing emergent situations in trauma patients and of providing any indicated emergent anesthesia treatment and are supervised by the staff anesthesiologist. In such cases, the staff anesthesiologist on–call shall be advised about the patient, be promptly available at all times, and be present for all operations.

(3) The following services shall be in–house or may be provided through a written transfer agreement:

(A) Burn care.

(B) Pediatric care.

(C) Rehabilitation services.

(k) The following service capabilities:

(1) Radiological service. The radiological service shall have a radiological technician promptly available.

(2) Clinical laboratory service. A clinical laboratory service shall have:

(A) a comprehensive blood bank or access to a community central blood bank; and

(B) clinical laboratory services promptly available.

(3) Surgical service. A surgical service shall have an operating suite that is available or being utilized for trauma patients and that has:

(A) Operating staff who are promptly available; and

(B) appropriate surgical equipment and supplies requirements which have been approved by the local EMS agency.

(l) Written transfer agreements with Level I or II trauma centers, Level I or II pediatric trauma centers, or other specialty care centers, for the immediate transfer of those patients for whom the most appropriate medical care requires additional resources.

(m) An outreach program, to include:

(1) capability to provide both telephone and on-site consultations with physicians in the community and outlying areas; and

(2) trauma prevention for the general public.

(n) Continuing education. Continuing education in trauma care, shall be provided for:

(1) staff physicians;

(2) staff nurses;

(3) staff allied health personnel;

(4) EMS personnel; and

(5) other community physicians and health care personnel.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Sections 1798.161 and 1798.165, Health and Safety Code.

HISTORY

1. New section filed 7-13-99; operative 8-12-99 (Register 99, No. 29).

§ 100264. Level IV Trauma Center.

A Level IV trauma center is a licensed hospital which has been designated as a Level IV trauma center by the local EMS agency. A Level IV trauma center shall include equipment and resources necessary for initial stabilization and personnel knowledgeable in the treatment of adult and pediatric trauma. A Level IV trauma center shall have at least the following:

(a) A trauma program medical director who is a qualified specialist whose responsibilities include, but are not limited to, factors that affect all aspects of trauma care, including pediatric trauma care, such as:

(1) recommending trauma team physician privileges;

(2) working with nursing administration to support the nursing needs of trauma patients;

(3) developing treatment protocols;

(4) having authority and accountability for the quality improvement peer review process;

(5) correcting deficiencies in trauma care or excluding from trauma call those trauma team members who no longer meet the standards of the quality improvement program; and

(6) assisting in the coordination of the budgetary process for the trauma program.

(b) A trauma nurse coordinator/manager who is a registered nurse with qualifications including evidence of educational preparation and clinical experience in the care of adult and/or pediatric trauma patients, administrative ability, and responsibilities that include, but are not limited to:

(1) organizing services and systems necessary for the multidisciplinary approach to the care of the injured patient;

(2) coordinating day-to-day clinical process and performance improvement as it pertains to nursing and ancillary personnel; and

(3) collaborating with the trauma program medical director in carrying out the educational, clinical, research, administrative and outreach activities of the trauma program.

(c) A trauma service which can provide for the implementation of the requirements specified in this Section and provide for coordination with the local EMS agency.

(d) The capability of providing prompt assessment, resuscitation and stabilization to trauma patients.

(e) The ability to provide treatment or arrange transportation to higher level trauma center as appropriate.

(f) An emergency department, division, service, or section staffed so that trauma patients are assured of immediate and appropriate initial care.

(g) A trauma team, which will be a multidisciplinary team responsible for the initial resuscitation and management of the trauma patient.

(h) The following service capabilities:

(1) Radiological service. The radiological service shall have a radiological technician promptly available.

(2) Clinical laboratory service. A clinical laboratory service shall have:

(A) a comprehensive blood bank or access to a community central blood bank; and

(B) clinical laboratory services promptly available.

(i) Written transfer agreements with Level I, II or III trauma centers, Level I or II pediatric trauma centers, or other specialty care centers, for the immediate transfer of those patients for whom the most appropriate medical care requires additional resources.

(j) An outreach program, to include:

(1) capability to provide both telephone and on-site consultations with physicians in the community and outlying areas; and

(2) trauma prevention for the general public.

(k) Continuing education. Continuing education in trauma care, shall be provided for:

(1) staff physicians;

(2) staff nurses;

(3) staff allied health personnel;

(4) EMS personnel; and

(5) other community physicians and health care personnel.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Sections 1798.161 and 1798.165, Health and Safety Code.

HISTORY

1. New section filed 7-13-99; operative 8-12-99 (Register 99, No. 29).

Article 4. Quality Improvement

§ 100265. Quality Improvement.

Trauma centers of all levels shall have a quality improvement process to include structure, process, and outcome evaluations which focus on improvement efforts to identify root causes of problems, intervene to reduce or eliminate these causes, and take steps to correct the process. In addition the process shall include:

(a) A detailed audit of all trauma-related deaths, major complications and transfers (including interfacility transfer);

(b) A multidisciplinary trauma peer review committee that includes all members of the trauma team;

(c) Participation in the trauma system data management system;

(d) Participation in the local EMS agency trauma evaluation committee; and

(e) Each trauma center shall have a written system in place for patients, parents of minor children who are patients, legal guardian(s) of children who are patients, and/or primary caretaker(s) of children who are patients to provide input and feedback to hospital staff regarding the care provided to the child.

(f) Following of applicable provisions of Evidence Code Section 1157.7 to ensure confidentiality.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Section 1798.161, Health and Safety Code.

HISTORY

1. New article 4 (section 100265) and section filed 7-13-99; operative 8-12-99 (Register 99, No. 29).

Article 5. Transfer of Trauma Patients

§ 100266. Interfacility Transfer of Trauma Patients.

(a) Patients may be transferred between and from trauma centers providing that:

(1) any transfer shall be, as determined by the trauma center surgeon of record, medically prudent; and

(2) in accordance with local EMS agency interfacility transfer policies.

(b) Hospitals shall have written transfer agreements with trauma centers. Hospitals shall develop written criteria for consultation and transfer of patients needing a higher level of care.

(c) Hospitals which have repatriated trauma patients from a designated trauma center shall provide the information required by the system trauma registry, as specified by local EMS agency policies, to the transferring trauma center for inclusion in the system trauma registry.

(d) Hospitals receiving trauma patients shall participate in system and trauma center quality improvement activities for those trauma patients which have been transferred.

NOTE: Authority cited: Sections 1797.107 and 1798.161, Health and Safety Code. Reference: Sections 1798.160 and 1798.161, Health and Safety Code.

HISTORY

1. New article 5 (section 100266) and section filed 7–13–99; operative 8–12–99 (Register 99, No. 29).

Chapter 8. Prehospital EMS Aircraft Regulations

Article 1. Definitions

§ 100276. Advanced Life Support.

"Advanced life support" or "ALS" as used in this Chapter means any definitive prehospital emergency medical care role approved by the local EMS agency, in accordance with state regulations, which includes all of the specialized care services listed in Section 1797.52 of the Health and Safety Code.

NOTE: Authority cited: Sections 1797.1 and 1797.107, Health and Safety Code. Reference: Sections 1797.103, 1797.206, 1797.218, 1797.220, 1797.252, 1798.2 and 1798.102, Health and Safety Code.

HISTORY

1. New Chapter 8 (Articles 1–5, Sections 100276–100306, not consecutive) filed 3–29–88; operative 4–28–88 (Register 88, No. 16).

§ 100277. Basic Life Support.

"Basic life support" or "BLS" as used in this Chapter means those procedures and skills contained in the EMT–I scope of practice as listed in Section 100063, Title 22, California Code of Regulations.

NOTE: Authority cited: Sections 1797.1 and 1797.107, Health and Safety Code. Reference: Sections 1797.80, 1797.103, 1797.170 and 1797.252, Health and Safety Code.

HISTORY

1. New section filed 3–29–88; operative 4–28–88 (Register 88, No. 16).

§ 100278. Medical Flight Crew.

"Medical flight crew" as used in this Chapter means the individual(s), excluding the pilot, specifically assigned to care for the patient during aircraft transport.

NOTE: Authority cited: Sections 1797.1, 1797.107, 1797.160, 1797.171 and 1797.172, Health and Safety Code. Reference: Sections 1797.80, 1797.82, 1797.84, 1797.103, 1797.160, 1797.170, 1797.171, 1797.172 and 1797.222, Health and Safety Code.

HISTORY

1. New section filed 3–29–88; operative 4–28–88 (Register 88, No. 16).

§ 100279. Emergency Medical Services Aircraft.

"Emergency medical services aircraft" or "EMS aircraft" as used in this Chapter means any aircraft utilized for the purpose of prehospital emergency patient response and transport. EMS aircraft includes air ambulances and all categories of rescue aircraft.

NOTE: Authority cited: Sections 1797.1 and 1797.107, Health and Safety Code. Reference: Sections 1797.103, 1797.178, 1797.204, 1797.206 and 1797.222, Health and Safety Code.

HISTORY

1. New section filed 3–29–88; operative 4–28–88 (Register 88, No. 16).

§ 100280. Air Ambulance.

"Air ambulance" as used in this Chapter means any aircraft specially constructed, modified or equipped, and used for the primary purposes of responding to emergency calls and transporting critically ill or injured patients whose medical flight crew has at a minimum two (2) attendants certified or licensed in advanced life support.

NOTE: Authority cited: Sections 1797.1 and 1797.107, Health and Safety Code. Reference: Sections 1797.52, 1797.82, 1797.84, 1797.103, 1797.171, 1797.172, 1797.206, 1797.218 and 1797.222, Health and Safety Code.

HISTORY

1. New section filed 3–29–88; operative 4–28–88 (Register 88, No. 16).

§ 100281. Rescue Aircraft.

"Rescue aircraft" as used in this Chapter means an aircraft whose usual function is not prehospital emergency patient transport but which may be utilized, in compliance with local EMS policy, for prehospital emergency patient transport when use of an air or ground ambulance is inappropriate or unavailable. Rescue aircraft includes ALS rescue aircraft, BLS rescue aircraft and Auxiliary rescue aircraft.

NOTE: Authority cited: Sections 1797.1 and 1797.107, Health and Safety Code. Reference: Sections 1797.52, 1797.60, 1797.82, 1797.84, 1797.103, 1797.171, 1797.172, 1797.206 and 1797.218, Health and Safety Code.

HISTORY

1. New section filed 3–29–88; operative 4–28–88 (Register 88, No. 16).

§ 100282. Advanced Life Support Rescue Aircraft.

"Advanced life support Rescue aircraft" or "ALS rescue aircraft" as used in this Chapter means a rescue aircraft whose medical flight crew has at a minimum one attendant certified or licensed in advanced life support.

NOTE: Authority cited: Sections 1797.1 and 1797.107, Health and Safety Code. Reference: Sections 1797.52, 1797.82, 1797.84, 1797.103, 1797.171, 1797.172, 1797.206, 1797.218 and 1797.222, Health and Safety Code.

HISTORY

1. New section filed 3–29–88; operative 4–28–88 (Register 88, No. 16).

§ 100283. Basic Life Support Rescue Aircraft.

"Basic life support rescue aircraft" or "BLS rescue aircraft" as used in this Chapter means a rescue aircraft whose medical flight crew has at a minimum one attendant certified as an EMT–IA, or an EMT–I–NA with at least eight (8) hours of hospital clinical training and whose field/clinical experience specified in Section 100074(c) of Title 22, California Code of Regulations, is in the aeromedical transport of patients.

NOTE: Authority cited: Sections 1797.1 and 1797.107, Health and Safety Code. Reference: Sections 1797.60, 1797.80, 1797.103 and 1797.170, Health and Safety Code.

HISTORY

1. New section filed 3–29–88; operative 4–28–88 (Register 88, No. 16).

§ 100284. Auxiliary Rescue Aircraft.

"Auxiliary rescue aircraft" as used in this Chapter means a rescue aircraft which does not have a medical flight crew, or whose medical flight crew do not meet the minimum requirements established in Section 100283.

NOTE: Authority cited: Sections 1797.1 and 1797.107, Health and Safety Code. Reference: Section 1797.103, Health and Safety Code.

HISTORY

1. New section filed 3–29–88; operative 4–28–88 (Register 88, No. 16).

§ 100285. Air Ambulance Service.

"Air ambulance service" as used in this Chapter means an air transportation service which utilizes air ambulances.

NOTE: Authority cited: Sections 1797.1 and 1797.107, Health and Safety Code. Reference: Sections 1797.103, 1797.206, 1797.218 and 1797.222, Health and Safety Code.

HISTORY

1. New section filed 3–29–88; operative 4–28–88 (Register 88, No. 16).

§ 100286. Air Rescue Service.

"Air rescue service" as used in this Chapter means an air service used for emergencies, including search and rescue.

NOTE: Authority cited: Sections 1797.1 and 1797.107, Health and Safety Code. Reference: Sections 1797.103, 1797.206 and 1797.218, Health and Safety Code.

HISTORY

1. New section filed 3–29–88; operative 4–28–88 (Register 88, No. 16).

§ 100287. Air Ambulance or Air Rescue Service Provider.

"Air ambulance or air rescue service provider" as used in this Chapter means the individual or group that owns and/or operates an air ambulance or air rescue service.

NOTE: Authority cited: Sections 1797.1 and 1797.107, Health and Safety Code. Reference: Sections 1797.103, 1797.206, 1797.218 and 1797.222, Health and Safety Code.

HISTORY

1. New section filed 3–29–88; operative 4–28–88 (Register 88, No. 16).

§ 100288. Classifying EMS Agency.

"Classifying EMS agency" or "classifying agency" as used in this Chapter means the agency which categorizes the EMS aircraft into the groups identified in Section 100300(c)(3). This shall be the local EMS agency in the jurisdiction of origin except for aircraft operated by the California Highway Patrol, the California Department of Forestry or the California National Guard which shall be classified by the EMS Authority.

NOTE: Authority cited: Sections 1797.1 and 1797.107, Health and Safety Code. Reference: Sections 1797.54, 1797.94, 1797.103, 1797.204 and 1797.206, Health and Safety Code.

HISTORY

1. New section filed 3–29–88; operative 4–28–88 (Register 88, No. 16).
2. Change without regulatory effect amending section filed 1–8–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 2).

§ 100289. Authorizing EMS Agency.

"Authorizing EMS agency" or "authorizing agency" as used in this Chapter means the local EMS agency which approves utilization of specific EMS aircraft within its jurisdiction.

NOTE: Authority cited: Sections 1797.1 and 1797.107, Health and Safety Code. Reference: Sections 1797.84, 1797.103, 1797.204, 1797.206 and 1797.218, Health and Safety Code.

HISTORY

1. New section filed 3–29–88; operative 4–28–88 (Register 88, No. 16).

§ 100290. Jurisdiction of Origin.

"Jurisdiction of origin" as used in this Chapter means the local EMS jurisdiction within which the authorized air ambulance or rescue aircraft is operationally based.

NOTE: Authority cited: Sections 1797.1 and 1797.107, Health and Safety Code. Reference: Sections 1797.94, 1797.103, 1797.204, 1797.206, 1797.218, 1797.222 and 1797.250, Health and Safety Code.

HISTORY

1. New section filed 3–29–88; operative 4–28–88 (Register 88, No. 16).

§ 100291. Designated Dispatch Center.

"Designated dispatch center" as used in this Chapter means an agency which has been designated by the local EMS agency for the purpose of coordinating air ambulance or rescue aircraft response to the scene of a medical emergency within the jurisdiction of a local EMS agency.

NOTE: Authority cited: Sections 1797.1 and 1797.107, Health and Safety Code. Reference: Sections 1797.103, 1797.204, 1797.206, 1797.218, 1797.222, 1797.252 and 1798.6, Health and Safety Code.

HISTORY

1. New section filed 3–29–88; operative 4–28–88 (Register 88, No. 16).

Article 2. General Provisions

§ 100300. Application of Chapter.

(a) It is the scope of this Chapter to establish minimum standards for the integration of EMS Aircraft and personnel into the local EMS prehospital patient transport system as a specialized resource for the transport and care of emergency medical patients.

(b) A local EMS agency may integrate aircraft into its prehospital patient transport system. Each local EMS agency choosing to integrate such aircraft into its prehospital care system shall develop a program which at minimum:

(1) Classifies EMS aircraft in accordance with Section 100300(c)(3).

(2) Incorporates into their EMS plan the utilization of EMS aircraft including but not limited to an inventory of:

(A) The number and type of authorized EMS aircraft.

(B) The patient capacity of authorized EMS aircraft.

(C) The level of patient care provided by EMS aircraft personnel.

(D) Receiving facilities with landing sites approved by the State Department of Transportation, Aeronautics Division.

(3) Establishes policies and/or procedures to assure compliance with the provisions of this Chapter.

(4) Develops written agreements with air ambulance or rescue aircraft providers specifying conditions to routinely serve their jurisdiction.

(c) In those jurisdictions where a local EMS agency has chosen to integrate aircraft into its prehospital patient transport system:

(1) No person or organization shall provide or hold themselves out as providing prehospital Air Ambulance or Air Rescue services unless that

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person or organization has aircraft which have been classified by a local EMS agency or in the case of the California Highway Patrol, California Department of Forestry, and California National Guard, the EMS Authority.

(2) All EMS Aircraft shall be classified.

(3) EMS aircraft classification shall be limited to the following categories:

(A) Air Ambulance

(B) ALS Rescue Aircraft

(C) BLS Rescue Aircraft

(D) Auxiliary Rescue Aircraft

(4) EMS Aircraft classification shall be reviewed in accordance with policies of the classifying agency. Reclassification shall occur if there is a transfer of ownership or a change in the aircraft's category.

(5) EMS aircraft must be authorized by the local EMS agency in order to provide prehospital patient transport within the jurisdiction of the local EMS agency.

A request from a designated dispatch center shall be deemed as authorization of aircraft operated by the California Highway Patrol, Department of Forestry, National Guard or the Federal Government.

(6) Air Ambulance and Air Rescue service providers including any company, lessee, agency (excluding agencies of the federal government), provider, owner, operator who provides or makes available prehospital air transport or medical personnel either directly or indirectly or any hospital where an EMS aircraft is based, housed, or stationed permanently or temporarily shall adhere to all federal, state, and local statutes, ordinances, policies, and procedures related to EMS aircraft operations, including qualifications of flight crews and aircraft maintenance.

(7) The local EMS agency may charge a fee to cover the costs directly associated with the classification and authorization of EMS aircraft.

NOTE: Authority cited: Sections 1797.1 and 1797.107, Health and Safety Code. Reference: Sections 1797.103, 1797.212, 1797.218, 1797.224 and 1797.252, Health and Safety Code.

HISTORY

1. New section filed 3–29–88; operative 4–28–88 (Register 88, No. 16).
2. Change without regulatory effect amending subsection (b)(1) filed 1–8–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 2).

Article 3. Personnel

§ 100302. Medical Flight Crew.

(a) The medical flight crew of an EMS aircraft shall have training in aeromedical transportation as specified and approved by the authorizing EMS agency including but not limited to:

(1) General patient care in–flight.

(2) Changes in barometric pressure, and pressure related maladies.

(3) Changes in partial pressure of oxygen.

(4) Other environmental factors affecting patient care.

(5) Aircraft operational systems.

(6) Aircraft emergencies and safety.

(7) Care of patients who require special consideration in the airborne environment.

(8) EMS system and communications procedures.

(9) The prehospital care system(s) within which they operate including local medical and procedural protocols.

(10) Use of onboard medical equipment.

(b) All medical flight crews shall participate in such continuing education requirements as required by their licensure or certification. Continuing education in aeromedical transportation subjects may be required by the authorizing EMS agency.

(c) (Reserved)

(d) (Reserved)

(e) In situations where the medical flight crew is less medically qualified than the ground personnel from whom they receive patients they may assume patient care responsibility only in accordance with policies and procedures of the requesting local EMS agency.

(f) EMS aircraft that do not have a medical flight crew shall not transport patients except in accordance with the policies and procedures of the requesting local EMS agency.

NOTE: Authority cited: Sections 1797.1 and 1797.107, Health and Safety Code. Reference: Sections 1797.17, 1797.171, 1797.172, 1797.175, 1797.176, 1797.178, 1797.214, 1797.218, 1798 and 1798.6, Health and Safety Code.

HISTORY

1. New section filed 3–29–88; operative 4–28–88. Subsections (c) and (d) were disapproved by OAL (Register 88, No. 16).

Article 4. System Operation

§ 100304. System Policies and Procedures.

(a) Those local EMS agencies choosing to integrate aircraft into the prehospital patient transport system shall develop policies and procedures for:

(1) the authorization of EMS aircraft to be utilized in prehospital patient care.

(2) requesting EMS aircraft including but not limited to the types of personnel and/or organizations that may request or cancel EMS aircraft. EMS aircraft requests shall only be made through a dispatch center which has been designated by a local EMS agency.

(3) the dispatching of EMS aircraft. These policies and procedures shall include but not be limited to:

(A) Availability and appropriateness of transportation and medical personnel resources including:

1. Ground versus air transport as related to proximity and type of incident.

2. Medical capability of potential responders.

(B) Notification of and coordination with other responding agencies.

(C) Termination of EMS aircraft response.

(4) Determining EMS aircraft patient destination including consideration of an interim stop at a rural hospital and continuation of care until the responsibility is assumed by the emergency or other staff of a final destination hospital.

(5) Orientation of pilots and medical flight crews to the local EMS system.

(6) Addressing and resolving formal complaints regarding the integration of aircraft into the prehospital patient transport system.

(b) The local agency's policies and procedures for medical control shall apply to the medical flight crew. Such policies and procedures may be modified by the local EMS agency, if required by the uniqueness of EMS aircraft response.

(c) The authorizing EMS agency's policies and procedures for record keeping and quality assurance, shall apply to EMS aircraft operations. Current policies and procedures maybe modified if required by the uniqueness of EMS aircraft response.

NOTE: Authority cited: Sections 1797.1 and 1797.107, Health and Safety Code. Reference: Sections 1797.103, 1797.105, 1797.204, 1797.206, 1797.218, 1797.222 and 1797.252, Health and Safety Code.

HISTORY

1. New section filed 3–29–88; operative 4–28–88 (Register 88, No. 16).

Article 5. Equipment and Supplies, Aircraft Specifications

§ 100306. Space and Equipment.

(a) All EMS Aircraft shall be configured so that:

(1) There is sufficient space in the patient compartment to accommodate one (1) patient on a stretcher and one (1) patient attendant. Air ambulances shall at a minimum have space to accommodate one (1) patient and two (2) patient attendants.

(2) There is sufficient space for medical personnel to have adequate access to the patient in order to carry out necessary procedures including CPR on the ground and in the air.

(3) There is sufficient space for medical equipment and supplies required by State regulations or authorizing EMS agency policy.

(4) Additional authorizing EMS agency requirements are met.

(b) Each EMS aircraft shall have adequate safety belts and tie-downs for all personnel, patient(s), stretcher(s) and equipment to prevent inadvertent movement.

(c) Each EMS aircraft shall have on-board equipment and supplies commensurate with the scope of practice of the medical flight crew as specified by the classifying EMS agency. This requirement may be fulfilled through the utilization of appropriate kits (cases/packs) which can be carried on a given flight to meet the needs of a specific type of patient and/or additional medical personnel not usually staffing the aircraft.

(d) Communications

(1) In accordance with authorizing EMS agency policies, all EMS aircraft shall have the capability of communicating with:

(A) Designated dispatch center(s).

(B) EMS ground units at the scene of an emergency.

(C) Designated base hospitals.

(D) Receiving hospitals.

(E) Other appropriate facilities or agencies.

(2) All EMS aircraft shall utilize appropriate radio frequencies for dispatch, routing and coordination of flights. This excludes use of Med 1-8 and HEAR (155.340 MHz and 155.280 MHz) for these purposes.

(3) Radio equipment may be inspected to assure compliance with the requirements of the authorizing EMS agency.

NOTE: Authority cited: Sections 1797.1 and 1797.107, Health and Safety Code. Reference: Sections 1797.103, 1797.204, 1797.206, 1797.220, 1797.222 and 1798.2, Health and Safety Code.

HISTORY

1. New section filed 3-29-88; operative 4-28-88 (Register 88, No. 16).

Chapter 9. Poison Control Center Regulations

Article 1. Definitions

§ 100321. Immediately Available.

"Immediately available" means unencumbered by conflicting duties or responsibilities and being within the specified area of the poison control center.

NOTE: Authority cited: Sections 1797.1, 1797.107 and 1798.180, Health and Safety Code. Reference: Section 1798.180, Health and Safety Code.

HISTORY

1. New section filed 2-18-92; operative 3-19-92 (Register 92, No. 13).

§ 100322. On-Call.

"On-call" means agreeing to be available by telephone or beeper to respond to the poison control center in order to provide a defined service.

NOTE: Authority cited: Sections 1797.1, 1797.107 and 1798.180, Health and Safety Code. Reference: Section 1798.180, Health and Safety Code.

HISTORY

1. New section filed 2-18-92; operative 3-19-92 (Register 92, No. 13).

§ 100323. Poison Control Center.

"Poison control center" or "PCC" or "regional poison control center" or "regional poison center" means a facility designated by the EMS Authority that provides information and advice to the public and health professionals regarding the management of individuals who have or may have ingested or otherwise been exposed to poisonous or possibly toxic substances. This information and advice shall be given by the medical director, program director, specialist in poison information, poison information provider, or a poison center specialty consultant as defined in Section 100330.

NOTE: Authority cited: Sections 1797.1, 1797.107 and 1798.180, Health and Safety Code. Reference: Sections 1797.97, 1798.180 and 1799.105, Health and Safety Code.

HISTORY

1. New section filed 2-18-92; operative 3-19-92 (Register 92, No. 13).

§ 100324. Poison Control Center Service Area.

"Poison control center service area" means the geographical service area of a regional poison control center as approved by the EMS Authority through designation.

NOTE: Authority cited: Sections 1797.1, 1797.107 and 1798.180, Health and Safety Code. Reference: Section 1798.180, Health and Safety Code.

HISTORY

1. New section filed 2-18-92; operative 3-19-92 (Register 92, No. 13).

§ 100325. Product Information Resources.

"Product information resources" are resources that provide information regarding ingredients contained in commercial products.

NOTE: Authority cited: Sections 1797.1, 1797.107 and 1798.180, Health and Safety Code. Reference: Section 1798.180, Health and Safety Code.

HISTORY

1. New section filed 2-18-92; operative 3-19-92 (Register 92, No. 13).

§ 100326. Provisional Certificate.

A "provisional certificate" shall be for two (2) years and may be given to a facility that does not meet the provisions of Section 100328(c) but that is otherwise in compliance with the requirements in this chapter as determined by an examination of the facility's application and/or by the site review. A provisional certificate gives the facility all the rights and privileges of a designated poison control center with the exception of eligibility for the California Regional Poison Control Centers' Funding Augmentation.

NOTE: Authority cited: Sections 1797.1, 1797.107 and 1798.180, Health and Safety Code. Reference: Sections 1797.97 and 1798.180, Health and Safety Code.

HISTORY

1. New section filed 2-18-92; operative 3-19-92 (Register 92, No. 13).

§ 100327. Temporary Designation.

"Temporary designation" shall be for one (1) year and may be given to a facility that meets the provisions of Section 100328(c), but that is not in compliance with the other requirements in this chapter as determined by an examination of the facility's application and/or by the site review. Temporary designation gives the facility all the rights and privileges of a designated poison control center.

NOTE: Authority cited: Sections 1797.1, 1797.107 and 1798.180, Health and Safety Code. Reference: Sections 1797.97 and 1798.180, Health and Safety Code.

HISTORY

1. New section filed 2-18-92; operative 3-19-92 (Register 92, No. 13).

Article 2. General Provisions

§ 100328. Poison Control Center Criteria.

The EMS Authority shall utilize the following criteria in designating facilities as poison control centers:

(a) No more than one (1) poison control center shall be designated for each two (2) million people.

(1) For those poison control center service areas with populations greater than two (2) million, additional facilities may be designated on the basis of a change in local need within that area as determined by the EMS Authority, including population, geographic distribution, and other factors affecting the efficiency and effectiveness of providing poison information services.

(b) The poison control center service area of a designated poison control center shall be distinct from that covered by any other designated poison control center.

(1) If an additional facility is designated pursuant to subsection (a)(1) of this Section, the poison control center service area may be redefined by the EMS Authority.

(c) The applicant has provided poison control information to the public and health professionals in its proposed service area for at least a two (2) year period.

NOTE: Authority cited: Sections 1797.1, 1797.107 and 1798.180, Health and Safety Code. Reference: Sections 1797.97 and 1798.180, Health and Safety Code.

HISTORY
1. New section filed 2–18–92; operative 3–19–92 (Register 92, No. 13).

§ 100329. Poison Control Center Responsibilities.

(a) In order to be designated as a regional poison control center a facility shall:

(1) Be immediately available by a direct incoming telephone system to the public and health professionals within the poison control center service area;

(2) have staff as defined in Section 100330(c) immediately available twenty–four (24) hours a day to answer poison exposure calls;

(3) have, within the poison control center area, poison information resources which include at least the following:

(A) One (1) or more current product information resources;

(B) current texts covering both general and specific aspects of acute and chronic poisoning management available at the central telephone answering site; and

(C) a list of poison center specialty consultants available on an on–call basis through a written agreement.

(4) have access to journal articles and published studies regarding medical toxicology either in the poison control center or through access to a medical library.

(5) have written treatment and triage protocols that are developed and updated by the poison control center program director and approved by the medical director. Each written protocol shall include the following elements:

(A) Description and types of exposures which may need no medical intervention;

(B) description and types of exposures which may be managed at home by simple therapeutic procedures in the professional opinion of the medical director, and a treatment and triage protocol for such management;

(C) description and types of exposures which may require referral for medical evaluation and/or treatment;

(D) a protocol for initial patient management;

(E) a protocol for determining the need for patient transport to a facility in accordance with the policies and procedures of the local EMS agency; and

(F) a description of how the poison control center correlates with local EMS policies and procedures, including 9–1–1.

(6) develop and maintain a poisoning data collection and reporting system as defined in Section 100332 and as required by Title 17, Sections 2500 through 2653.

(7) develop and provide a poison oriented health education program for the public and health professionals to include at least physicians, nurses, prehospital emergency medical services personnel; and

(8) develop and maintain a quality assurance program as defined in Section 100331.

NOTE: Authority cited: Sections 1797.1, 1797.107 and 1798.180, Health and Safety Code. Reference: Section 1797.97 and 1798.180, Health and Safety Code.

HISTORY
1. New section filed 2–18–92; operative 3–19–92 (Register 92, No. 13).

§ 100330. Poison Control Center Staffing.

(a) Each poison control center shall have a medical director who shall be a physician and surgeon currently licensed in the State of California, who has a minimum of two (2) years' postgraduate training in clinical toxicology and/or a minimum of three (3) years' clinical experience in the last five (5) years in toxicology or poison information sciences, and who devotes a minimum of ten (10) percent of his or her practice to treating poisoned patients. The medical director shall be on–call to the staff of the poison control center and shall participate in professional medical education programs pursuant to subsection (b)(4) of this Section. Duties of the medical director shall include, but not be limited to:

(1) Assisting the specialists in poison information upon request or in accordance with treatment and triage protocols;

(2) approving treatment and triage protocols as specified in Section 100329(a)(4) which are written and updated by the program director pursuant to subsection (b)(3) of this Section;

(3) reviewing the quality assurance program as specified in Section 100331;

(4) consulting with physicians on the treatment of poisoned patients as appropriate; and

(5) reviewing the poison center specialty consultant(s)' qualifications and approving or disapproving the consultation services applicant(s).

(b) Each poison control center shall have a program director who shall be a pharmacist, physician or registered nurse, licensed in the State of California, who has a minimum of two (2) years' postgraduate training in clinical toxicology and/or a minimum of three (3) years' clinical experience in the last five (5) years in toxicology and/or poison information sciences. The program director must have two (2) years' experience in the administration of a health related program. Duties of the program director shall be coordinated with the medical director and shall include, but not be limited to:

(1) Supervising the poison control center's organization, staff, funding and quality assurance;

(2) determining and ensuring the availability of staff identified in subsections (a), (c), (d) and (e) of this Section;

(3) developing and updating treatment and triage protocols as specified in Section 100329(a)(4) to be approved by the medical director pursuant to subsection (a)(2) of this Section;

(4) developing and/or approving poison oriented health education programs for the public and health professionals pursuant to Section 100329(a)(6). These education programs shall be coordinated with the local EMS agency(s);

(5) developing and maintaining a data collection system as specified in Section 100332; and

(6) assisting the specialists in poison information upon request or in accordance with treatment and triage protocols.

(c) Each poison control center shall have a specialist(s) in poison information who shall be a pharmacist, physician, or registered nurse currently licensed in the State of California, who has training or experience in toxicology and poison information sciences as defined by the medical and program director of the poison control center. Duties of the specialist in poison information shall include, but not be limited to:

(1) Answering incoming telephone calls, evaluating the poison exposure history, providing management information and determining the necessity for additional medical consultation;

(2) updating poison information files; and

(3) teaching poison oriented health education programs.

(d) Each poison control center may have a poison information provider(s) trained in reading, understanding and transmitting poison information. The poison information provider will be under the direct on–site supervision of a specialist in poison information.

(e) Each poison control center shall have a poison center specialty consultant(s) who is qualified by training and/or experience to provide specialized toxicology information related to the poisonings encountered in the area serviced by the poison control center. The poison center specialty consultant shall have a written agreement with the poison control center that is updated yearly to provide consultation services on an on–call basis.

NOTE: Authority cited: Sections 1797.1, 1797.107 and 1798.180, Health and Safety Code. Reference: Sections 1797.97 and 1798.180, Health and Safety Code.

HISTORY
1. New section filed 2–18–92; operative 3–19–92 (Register 92, No. 13).

§ 100331. Quality Assurance Program.

(a) A poison control center shall have a quality assurance program which shall include at a minimum:

(1) Case review of all deaths in which poison control center consultation was provided;

(2) case review and critique of a sample of cases;

(3) screenings of poisoning and exposure cases by type of poison; and

(4) either direct monitoring of a sample of calls or tape recordings of calls.

(b) The medical director shall conduct an audit and case review of poisoning cases at least quarterly.

NOTE: Authority cited: Sections 1797.1, 1797.107 and 1798.180, Health and Safety Code. Reference: Sections 1797.97 and 1798.180, Health and Safety Code.

HISTORY

1. New section filed 2–18–92; operative 3–19–92 (Register 92, No. 13).

§ 100332. Data Collection.

(a) A poison control center shall implement a data management system capable of collecting poison information data, which shall be available from poison control center case records.

(b) The data shall be submitted annually to the EMS Authority and shall include at least the number of incoming calls for each county in and outside of the poison control center service area from the public and health professionals.

NOTE: Authority cited: Sections 1797.1, 1797.107 and 1798.180, Health and Safety Code. Reference: Section 1798.180, Health and Safety Code.

HISTORY

1. New section filed 2–18–92; operative 3–19–92 (Register 92, No. 13).

Article 3. Designation Process

§ 100333. Designation Process.

(a) A facility that wishes to be designated as a poison control center shall submit a written application to the EMS Authority along with supporting documentation that explains how it meets the provisions of these regulations.

(b) The application for approval shall include at least the following:

(1) Organization chart;

(2) names, qualifications, duty statements, and hours available of:

(A) Medical director;

(B) program director or coordinator;

(C) specialist(s) in poison information;

(D) poison information provider(s); and

(E) poison center specialty consultants.

(3) written verification of contracts with poison center specialty consultants;

(4) information explaining how the responsibilities of Section 100329(a)(1) through 100329(a)(7) are being met;

(5) description of proposed service area and how it will be integrated with:

(A) the affected local EMS agencies' service area and system; and

(B) other poison control centers.

(6) intent to execute a written agreement with the EMS Authority committing the applicant to meet the requirements of this chapter.

(c) The EMS Authority shall notify the local EMS Agencies in the proposed poison control center service area within ten (10) working days of receiving the application that the facility is applying for designation.

(d) The EMS Authority shall notify the facility submitting its application for poison control center designation within thirty (30) working days of receiving the application that:

(1) The application has been received;

(2) the application contains or does not contain the information required by this Section; and

(3) what information is missing, if any.

(e) The EMS Authority shall conduct a site visit to determine that the facility's resources and capabilities described in its application are in compliance with these regulations.

(f) The EMS Authority shall:

(1) Notify the facility submitting an application for regional poison control center designation, and the EMS agencies in the proposed poison control center service area, that the facility either has been "designated," received "temporary designation," or received a "provisional certificate," or has been "disapproved for designation" within 120 days of receipt of a complete application; and

(2) provide the reasons for disapproval of an application if disapproved for designation.

(g) A facility holding a temporary designation or a provisional certificate, must achieve full designation status on or before the conclusion of the temporary designation or provisional certificate, or cease operation. No further action of the EMS Authority is required.

(h) If the EMS Authority disapproves an application, the facility submitting the application shall have three (3) months from the date notification of the disapproval is received to submit a written appeal which states the reasons for objecting to the EMS Authority's decision.

(1) The EMS Authority will present the appeal package to the Commission on Emergency Medical Services. The appeal package shall include the following:

(A) The EMS Authority's written disapproval;

(B) The facility's written appeal;

(C) The facility's application and any documents the EMS Authority used to make the decision for disapproval.

(2) The Commission on EMS shall consider the appeal at their next regularly scheduled Commission meeting, at which time the facility shall have the opportunity to address the Commission. The Commission on EMS shall make a determination within one (1) year of receipt of the appeal.

(i) Poison control center designation shall be for four (4) years at which time a new application for continued poison control center designation shall be submitted.

(j) If a poison control center does not wish to continue being designated, it shall terminate its designation by notifying the EMS Authority at least sixty (60) days before the date of termination stating the reasons for its termination. The EMS Authority shall inform the local EMS agency(s) in the poison control center service area.

(k) The EMS Authority may conduct periodic evaluations of approved poison control centers. This may include a yearly site visit.

NOTE: Authority cited: Sections 1797.1, 1797.107 and 1798.180, Health and Safety Code. Reference: Sections 1797.97 and 1798.180, Health and Safety Code.

HISTORY

1. New section filed 2–18–92; operative 3–19–92 (Register 92, No. 13).

§ 100334. Revocation of Designation.

(a) If the EMS Authority determines that a designated poison control center has not implemented a program consistent with its designation requirements, its designation as a poison control center may be withdrawn.

(b) When the EMS Authority intends to withdraw a poison control center's designation, the Director shall:

(1) Notify the poison control center of the proposed action;

(2) concurrently serve the poison control center with a description of the deficiencies; and

(3) advise the poison control center of the right to a hearing.

(c) The EMS Authority may temporarily terminate designation prior to any hearing when in the opinion of the Director, the action is necessary to protect the public's health or safety. The Director shall:

(1) Notify the poison control center of the temporary suspension and the effective date thereof; and

(2) serve the poison control center with a description of the deficiencies.

(d) When a poison control center receives written notice or service of the EMS Authority's intent to withdraw the poison control center's designation, the poison control center shall have seven (7) working days from the date of receipt of the written notice or service to respond in writing to the EMS Authority's description of deficiencies. Upon receipt of a notice of defense to the allegation by the poison control center, the EMS Authority shall, within fifteen (15) days, set the matter for hearing. The hearing shall be held as soon as possible but not later than thirty (30) days after receipt of the notice.

(e) The temporary suspension shall remain in effect until such time as the hearing is completed and the Director has made a final determination on the merits.

(f) The temporary suspension shall be deemed vacated if the Director fails to make a final determination on the merits within thirty (30) days after the original hearing has been completed.

NOTE: Authority cited: Sections 1797.1, 1797.107 and 1798.180, Health and Safety Code. Reference: Sections 1797.97 and 1798.180, Health and Safety Code.

HISTORY

1. New section filed 2-18-92; operative 3-19-92 (Register 92, No. 13).

Chapter 11. EMS Continuing Education

Article 1. Definitions

§ 100390. Emergency Medical Services (EMS) Continuing Education (CE) Provider.

EMS Continuing Education Provider means an individual or organization approved by the requirements of this Chapter, to conduct continuing education courses, classes, activities or experiences and issue earned continuing education hours to EMS Personnel for the purposes of maintaining certification/licensure or re-establishing lapsed certification or licensure.

NOTE: Authority cited: Sections 1797.107, 1797.172, 1797.174, 1797.175, 1797.185 and 1797.194, Health and Safety Code. Reference: Sections 1797.7, 1797.172, 1797.185 and 1797.214, Health and Safety Code.

HISTORY

1. New chapter 11 (articles 1-6), article 1 (sections 100390-100390.7) and section filed 9-10-2004; operative 10-10-2004 (Register 2004, No. 37).

§ 100390.1. EMS Service Provider.

EMS Service Provider means an organization employing certified EMT-I, certified EMT-II or licensed paramedic personnel for the delivery of emergency medical care to the sick and injured at the scene of an emergency, during transport, or during interfacility transfer.

NOTE: Authority cited: Sections 1797.107, 1797.172, 1797.174, 1797.175, 1797.185 and 1797.194, Health and Safety Code. Reference: Sections 1797.7, 1797.172, 1797.185 and 1797.214, Health and Safety Code.

HISTORY

1. New section filed 9-10-2004; operative 10-10-2004 (Register 2004, No. 37).

§ 100390.2. EMS System Quality Improvement Program.

"Emergency Medical Services System Quality Improvement Program" or "QIP" means methods of evaluation that are composed of structure, process, and outcome evaluations which focus on improvement efforts to identify root causes of problems, intervene to reduce or eliminate these causes, and take steps to correct the process pursuant to Chapter 12 of Division 9, Title 22, California Code of Regulations.

NOTE: Authority cited: Sections 1797.107, 1797.172, 1797.174, 1797.175, 1797.185 and 1797.194, Health and Safety Code. Reference: Sections 1797.7, 1797.172, 1797.185 and 1797.214, Health and Safety Code.

HISTORY

1. New section filed 9-10-2004; operative 10-10-2004 (Register 2004, No. 37).

§ 100390.3. Continuing Education.

Continuing education (CE) is a course, class, activity, or experience designed to be educational in nature, with learning objectives and performance evaluations for the purpose of providing EMS personnel with reinforcement of basic EMS training as well as knowledge to enhance individual and system proficiency in the practice of pre-hospital emergency medical care.

NOTE: Authority cited: Sections 1797.107, 1797.172, 1797.174, 1797.175, 1797.185 and 1797.194, Health and Safety Code. Reference: Sections 1797.7, 1797.172, 1797.185 and 1797.214, Health and Safety Code.

HISTORY

1. New section filed 9-10-2004; operative 10-10-2004 (Register 2004, No. 37).

§ 100390.4. Continuing Education Hour (CEH).

(a) One continuing education hour (CEH) is any one of the following:

(1) Every fifty minutes of approved classroom or skills laboratory activity.

(2) Each hour of structured clinical or field experience when monitored by a preceptor assigned by an EMS training program, EMS service provider, hospital or alternate base station approved according to this Division.

(3) Each hour of media based/serial production CE as approved by the CE provider approving authority.

(b) Continuing Education courses or activities shall not be approved for less than one hour of credit.

(c) For courses greater than one CEH, credit may be granted in no less than half hour increments.

(d) Ten CEHs will be awarded for each academic quarter unit or fifteen CEHs will be awarded for each academic semester unit for college courses in physical, social or behavioral sciences (e.g., anatomy, physiology, sociology, psychology).

(e) CE hours will not be awarded until the written and/or skills competency based evaluation, as required by Section 100391(c), has been passed.

NOTE: Authority cited: Sections 1797.107, 1797.172, 1797.174, 1797.175, 1797.185 and 1797.194, Health and Safety Code. Reference: Sections 1797.7, 1797.172, 1797.185 and 1797.214, Health and Safety Code.

HISTORY

1. New section filed 9-10-2004; operative 10-10-2004 (Register 2004, No. 37).

§ 100390.5. CE Provider Approving Authority.

(a) Courses and/or CE providers approved by the Continuing Education Coordinating Board for Emergency Medical Services (CECBEMS) or approved by EMS offices of other states are approved for use in California and need no further approval.

(b) Courses in physical, social or behavioral sciences offered by accredited colleges and universities are approved for CE and need no further approval.

(c) The local EMS agency shall be the agency responsible for approving EMS Continuing Education Providers whose headquarters are located within the geographical jurisdiction of that local EMS agency if not approved according to subsections (a) or (b) of this section.

(d) The EMS Authority shall be the agency responsible for approving CE providers for statewide public safety agencies and CE providers whose headquarters are located out-of-state if not approved according to subsections (a) or (b) of this Section.

NOTE: Authority cited: Sections 1797.107, 1797.172, 1797.174, 1797.175, 1797.185 and 1797.194, Health and Safety Code. Reference: Sections 1797.7, 1797.172, 1797.185 and 1797.214, Health and Safety Code.

HISTORY

1. New section filed 9-10-2004; operative 10-10-2004 (Register 2004, No. 37).

§ 100390.6. National Standard Curriculum.

National Standard Curriculum means the curricula developed under the auspices of the United States Department of Transportation, National Highway Traffic Safety Administration for the specified level of training of EMS Personnel which includes the following incorporated herein by reference: Emergency Medical Technician-Basic: National Standard Curriculum, DOT HS 808 149, August 1994; Emergency Medical Technician-Intermediate: National Standard Curriculum, DOT HS 809 016, December 1999; and Emergency Medical Technician-Paramedic: National Standard Curriculum DOT HS 808 862, March 1999. These curricula are incorporated herein by reference and can be accessed at the U.S. Department of Transportation, National Highway Traffic Safety Administration website www.nhtsa.dot.gov/people/injury/ems/products.htm.

NOTE: Authority cited: Sections 1797.107, 1797.172, 1797.174, 1797.175, 1797.185 and 1797.194, Health and Safety Code. Reference: Sections 1797.7, 1797.172, 1797.185 and 1797.214, Health and Safety Code.

HISTORY

1. New section filed 9-10-2004; operative 10-10-2004 (Register 2004, No. 37).

§ 100390.7. Pre-Hospital Emergency Medical Care Personnel.

For the purpose of this chapter, Pre-hospital Emergency Medical Care Personnel or EMS Personnel means EMT-I, EMT-II or EMT-Paramed-

ic as defined in Health and Safety Code Sections 1797.80, 1797.82, and 1797.84, respectively.

NOTE: Authority cited: Sections 1797.107, 1797.172, 1797.174, 1797.175, 1797.185 and 1797.194, Health and Safety Code. Reference: Sections 1797.7, 1797.172, 1797.185 and 1797.214, Health and Safety Code.

HISTORY

1. New section filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

Article 2. Approved Continuing Education

§ 100391. Continuing Education Topics.

(a) Continuing education for EMS personnel shall be in any of the topics contained in the respective National Standard Curricula for training EMS personnel, except as provided in Section 100391.1(a)(8) of this Chapter.

(b) In lieu of completing the required CEH, EMT–I certification can be maintained by successfully completing an approved refresher course pursuant to Section 100080 of Chapter 2, Division 9, Title 22, California Code of Regulations.

(c) All approved CE shall contain a written and/or skills competency based evaluation related to course, class, or activity objectives.

(d) Approved CE courses shall be accepted statewide.

NOTE: Authority cited: Sections 1797.107, 1797.172, 1797.174, 1797.175, 1797.185 and 1797.194, Health and Safety Code. Reference: Sections 1797.7, 1797.172, 1797.185 and 1797.214, Health and Safety Code.

HISTORY

1. New article 2 (sections 100391–100391.1) and section filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100391.1. Continuing Education Delivery Formats and Limitations.

(a) Delivery formats for CE courses shall be by any of the following:

(1) Classroom — didactic and/or skills laboratory where direct interaction with instructor is possible.

(2) Organized field care audits of patient care records;

(3) Courses offered by accredited universities and colleges, including junior and community colleges;

(4) Structured clinical experience, with instructional objectives, to review or expand the clinical expertise of the individual.

(5) Media based and/or serial productions (e.g. films, videos, audiotape programs, magazine articles offered for CE credit, home study, computer simulations or interactive computer modules).

(6) Precepting EMS students or EMS personnel as a hospital clinical preceptor, as assigned by an EMS training program, an EMS service provider, a hospital or alternate base station approved according to this Division. In order to issue CE for precepting EMS students or EMS personnel, an EMS service provider, hospital or alternate base station must be a CE provider approved according to this Chapter. CE for precepting can only be given for actual time spent precepting a student or EMS personnel and must be issued by the EMS training program, EMS service provider, hospital or alternate base station that has an agreement or contract with the hospital clinical preceptor or with the preceptor's employer.

(7) Precepting EMS students or EMS personnel as a field preceptor, as assigned by an EMS training program or an EMS service provider approved according to this Division. CE for precepting can only be given for actual time precepting a student and must be issued by the EMS training program or EMS service provider that has an agreement or contract with the field preceptor or with the preceptor's employer. In order to issue CE for precepting EMS students or EMS personnel, an EMS service provider must be a CE provider approved according to this Chapter.

(8) Advanced topics in subject matter outside the scope of practice of the certified or licensed EMS personnel but directly relevant to emergency medical care (e.g. surgical airway procedures).

(9) At least fifty percent of the required CE hours must be in a format that is instructor based, which means that instructor resources are readily available to the student to answer questions, provide feedback, provide clarification, and address concerns (e.g., on–line CE courses where an instructor is available to the student). This provision shall not include precepting or magazine articles for CE credit. The CE provider approving authority shall determine whether a CE course, class or activity is instructor based.

(10) During a certification or licensure cycle, an individual may receive credit, one time only, for service as a CE course, class, or activity instructor. Credit received shall be the same as the number of CE hours applied to the course, class, or activity.

(11) During a certification or licensure cycle, an individual may receive credit, one time only, for service as an instructor for one of the following, an approved EMT–I, EMT–II, or paramedic training program, except that the hours of service shall not exceed fifty percent of the total CE hours required in a single certification or licensure cycle.

(12) When guided by the EMS service provider's QIP, an EMS service provider that is an approved CE provider may issue CEH for skills competency demonstrations to address any deficiencies identified by the service provider's QIP. Skills competency demonstration shall be conducted in accordance with the respective National Standard Curriculum skills outline or in accordance with the policies and procedures of the local EMS agency medical director.

(b) An individual may receive credit for taking the same CE course, class, or activity no more than two times during a single certification or licensure cycle.

(c) Local EMS agencies may not require additional continuing education hours for accreditation.

(d) If it is determined through a QIP that EMS personnel working in a local EMS system need remediation or refresher in an area of the individual's knowledge and/or skills, a local EMS agency medical director or an EMS service provider may require the EMS personnel to take an approved CE course with learning objectives that addresses the remediation or refresher needed, as part of the individual's required hours of CE for maintaining certification or licensure.

(e) Because paramedic license renewal applications are due to the EMS Authority thirty days prior to the expiration date of a paramedic license, a continuing education course(s) taken in the last month of a paramedic's licensure cycle, may be applied to the paramedic's subsequent licensure cycle, if that CE course(s) was not applied to the licensure cycle during which the CE course(s) was taken.

NOTE: Authority cited: Sections 1797.107, 1797.172, 1797.174, 1797.175, 1797.185 and 1797.194, Health and Safety Code. Reference: Sections 1797.7, 1797.172, 1797.185 and 1797.214, Health and Safety Code.

HISTORY

1. New section filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

Article 3. Continuing Education Records

§ 100392. Continuing Education Records.

(a) In order for CE to satisfy the requirements for maintaining EMS personnel certification or licensure, CE shall be completed during the current certification/licensure cycle, except as provided in Section 100391.1(e) of this Chapter, and shall be submitted to the appropriate certifying/licensing authority.

(b) In order for CE to satisfy the requirements for renewal of a lapsed certificate/license, CE shall be valid for a maximum of two years prior to the date of a completed application for certificate/license renewal.

(c) EMS personnel shall maintain for four years CE certificates issued to them by any CE provider.

(d) CE certificates may be audited for cause by the certifying/licensing authority or as part of the certifying/licensing authority's continuing education verification process.

(e) Approved CE provider record requirements are contained in Section 100395, sub–sections (b) and (*l*) of this Chapter.

NOTE: Authority cited: Sections 1797.107, 1797.172, 1797.174, 1797.175, 1797.185 and 1797.194, Health and Safety Code. Reference: Sections 1797.7, 1797.172, 1797.185 and 1797.214, Health and Safety Code.

HISTORY
1. New article 3 (section 100392) and section filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

Article 4. CE Provider Approval Process

§ 100393. Application for Approval.

(a) In order to be an approved CE provider, an organization or individual shall submit an application packet for approval to the appropriate CE approving authority, along with the fee specified by that authority.

(1) The fee assessed by the EMS Authority is specified in Section 100171(b)(7) of Chapter 4, Division 9, Title 22, California Code of Regulations.

(b) The application packet shall include, but may not be limited to:

(1) Name and address of the applicant;

(2) Name of the program director, program clinical director, and contact person, if other than the program director or clinical director;

(3) The type of entity or organization requesting approval; and,

(4) The resumes of the program director and the clinical director.

(c) The CE approving authority shall, within fourteen working days of receiving a request for approval, notify the CE provider that the request has been received, and shall specify what information, if any, is missing.

(d) The CE approving authority shall approve or disapprove the CE request within sixty calendar days of receipt of the completed request.

(e) If the CE request is approved, the CE approving authority shall issue a CE provider number according to the standardized sequence developed by the EMS Authority.

(f) The CE approving authority may approve CE providers for up to four years, and may monitor the compliance of CE providers to the standards established by the CE approving authority.

(g) When a CE provider is approved by either a local EMS agency or the EMS Authority, the CE provider is approved to conduct CE courses statewide.

NOTE: Authority cited: Sections 1797.107, 1797.172, 1797.174, 1797.175, 1797.185 and 1797.194, Health and Safety Code. Reference: Sections 1797.7, 1797.172, 1797.185 and 1797.214, Health and Safety Code.

HISTORY
1. New article 4 (sections 100393–100393.1) and section filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100393.1. Application for Renewal.

(a) The CE provider shall submit an application for renewal at least sixty calendar days before the expiration date of their CE provider approval in order to maintain continuous approval.

(b) All CE provider requirements shall be met and maintained for renewal as specified in Section 100395 of this Chapter.

NOTE: Authority cited: Sections 1797.107, 1797.172, 1797.174, 1797.175, 1797.185 and 1797.194, Health and Safety Code. Reference: Sections 1797.7, 1797.172, 1797.185 and 1797.214, Health and Safety Code.

HISTORY
1. New section filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

Article 5. CE Provider Denial/Disapproval Process

§ 100394. CE Provider Disapproval.

(a) Noncompliance with any criterion required for CE provider approval, use of any unqualified teaching personnel, or noncompliance with any other applicable provision of this Chapter may result in denial, probation, suspension or revocation of CE provider approval by the CE approving authority.

(b) Notification of noncompliance and action to place on probation, suspend or revoke shall be carried out as follows:

(1) A CE approving authority shall notify the approved CE provider program director in writing, by certified mail, of the provision of this Chapter with which the CE provider is not in compliance.

(2) Within fifteen days of receipt of the notification of noncompliance, the approved CE provider shall submit in writing, by certified mail, to the approving authority one of the following:

(A) Evidence of compliance with the provisions of this Chapter, or

(B) A plan for meeting compliance with the provisions of this Chapter within sixty days from the date of receipt of the notification of noncompliance.

(3) Within fifteen days of receipt of the response from the approved CE provider, or within thirty days from the mailing date of the noncompliance notification if no response is received from the approved CE provider, the CE approving authority shall notify the EMS Authority and the approved CE provider in writing, by certified mail, of the decision to accept the evidence of compliance, accept the plan for meeting compliance, or place on probation, suspend or revoke the CE provider approval.

(4) If the CE provider approving authority decides to place on probation, suspend or revoke the CE provider's approval, the notification specified in sub–section (b)(3) of this section shall include the beginning and ending dates of the probation or suspension and the terms and conditions for lifting of the probation or suspension or the effective date of the revocation, which may not be less than sixty days from the date of the CE approving authority's letter of decision to the EMS Authority and the CE provider.

(c) If CE provider status is suspended or revoked, approval for CE credit shall be withdrawn for all CE programs scheduled after the date of action.

(d) The CE approving authority shall notify the EMS Authority of each CE provider approved, placed on probation, suspended or revoked within its jurisdiction within thirty calendar days of action.

(e) The EMS Authority shall maintain a list of all CE providers that are approved, placed on probation, suspended or revoked and shall post the listing on the EMS Authority's website.

NOTE: Authority cited: Sections 1797.107, 1797.172, 1797.174, 1797.175, 1797.185 and 1797.194, Health and Safety Code. Reference: Sections 1797.7, 1797.172, 1797.185 and 1797.214, Health and Safety Code; and Section 15376, Government Code.

HISTORY
1. New article 5 (section 100394) and section filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

Article 6. CE Providers for EMS Personnel

§ 100395. CE Provider Requirements.

(a) In order to be approved as an EMS continuing education provider, the provisions in this Section shall be met.

(1) The applicant shall submit an application packet as specified in Section 100393(b) of this Chapter and any required fee to the approving authority at least sixty calendar days prior to the date of the first educational activity.

(b) An approved CE provider shall ensure that:

(1) The content of all CE is relevant, designed to enhance the practice of EMS emergency medical care, and be related to the knowledge base or technical skills required for the practice of emergency medical care.

(2) Records shall be maintained for four years and shall contain the following:

(A) Complete outlines for each course given, including a brief overview, instructional objectives, comprehensive topical outline, method of evaluation and a record of participant performance;

(B) Record of time, place, and date each course is given and the number of CE hours granted;

(C) A curriculum vitae or resume for each instructor;

(D) A roster signed by course participants, or in the case of media based/serial production courses, a roster of course participants, to include name and certificate or license number of EMS personnel taking any CE course, class, or activity and a record of any course completion certificate(s) issued.

(c) The CE approving authority shall be notified within thirty calendar days of any change in name, address, telephone number, program director, clinical director or contact person.

(d) All records shall be made available to the CE approving authority upon request. A CE provider shall be subject to scheduled site visits by the approving authority.

(e) Individual classes, courses or activities shall be open for scheduled or unscheduled visits by the CE approving authority and/or the local EMS agency in whose jurisdiction the CE course, class or activity is being offered.

(f) Each CE provider shall provide for the functions of administrative direction, medical quality coordination and actual program instruction through the designation of a program director, a clinical director and instructors. Nothing in this section precludes the same individual from being responsible for more than one of these functions.

(g) Each CE provider shall have an approved program director, who is qualified by education and experience in methods, materials and evaluation of instruction, which shall be documented by at least forty hours in teaching methodology. Following, but not limited to, are examples of courses that meet the required instruction in teaching methodology:

(1) California State Fire Marshal (CSFM) "Fire Instructor 1A and 1B"; or

(2) National Fire Academy (NFA) "Fire Service Instructional Methodology" course; or

(3) a training program that meets the U. S. Department of Transportation/National Highway Traffic Safety Administration 2002 Guidelines for Educating EMS Instructors, such as the EMS Educator Course of the National Association of EMS Educators.

(4) Individuals with equivalent experience may be provisionally approved for up to two years by the approving authority pending completion of the above specified requirements. Individuals with equivalent experience who teach in geographic areas where training resources are limited and who do not meet the above program director requirements may be approved upon review of experience and demonstration of capabilities.

(h) The duties of the program director shall include, but not be limited to:

(1) Administering the CE program and ensuring adherence to state regulations and established local policies.

(2) Approving course, class, or activity, including instructional objectives, and assigning CEH to any CE program which the CE provider sponsors; approving all methods of evaluation, coordinating all clinical and field activities approved for CE credit; approving the instructor(s) and signing all course, class, or activity completion records and maintaining those records in a manner consistent with these guidelines. The responsibility for signing course, class, or activity completion records may be delegated to the course, class, or activity instructor.

(i) Each CE provider shall have an approved clinical director who is currently licensed as a physician, registered nurse, physician assistant, or paramedic. In addition, the clinical director shall have had two years of academic, administrative or clinical experience in emergency medicine or EMS care within the last five years. The duties of the clinical director shall include, but not be limited to, monitoring all clinical and field activities approved for CE credit, approving the instructor(s), and monitoring the overall quality of the EMS content of the program.

(j) Each CE provider instructor shall be approved by the program director and clinical director as qualified to teach the topics assigned, or have evidence of specialized training which may include, but is not limited to, a certificate of training or an advanced degree in a given subject area, or have at least one year of experience within the last two years in the specialized area in which they are teaching, or be knowledgeable, skillful and current in the subject matter of the course, class or activity.

(k) Continuing education credit shall be assigned on the following basis:

(1) Classes or activities less than one CEH in duration will not be approved.

(2) For courses greater than one CEH, credit may be granted in no less than half hour increments.

(l) Each CE provider shall maintain for four years:

(1) Records on each course, class, or activity including, but not limited to, title, objectives, outlines, qualification of instructors, dates of instruction, location, participant rosters, sample tests or other methods of evaluation, and records of course, class, or activity completions issued.

(2) Summaries of test results, or other methods of evaluation. The type of evaluation used may vary according to the instructor, content of program, number of participants and method of presentation.

(m) Providers shall issue to the participant a tamper resistant document or certificate of proof of successful completion of a course, class, or activity within thirty calendar days of completion of the course, class, or activity. The CE certificate or documentation of successful completion must contain the name of participant, certificate or license number, class title, CE provider name and address, date of course, class, or activity and signature of program director or class instructor. A digitally reproduced signature of the program director or class instructor is acceptable for media based/serial production CE courses. In addition, the following statements shall be printed on the certificate of completion with the appropriate information filled in:

"This course has been approved for (number) hours of continuing education by an approved California EMS CE Provider and was (check one) ____ instructor–based, ____ non–instructor based". "This document must be retained for a period of four years"

"California EMS CE Provider # _____ – _____"

(n) Information disseminated by CE providers publicizing CE must include at a minimum the following:

(1) CE provider's policy on refunds in cases of nonattendance by the registrant or cancellation by provider;

(2) a clear, concise description of the course, class or activity content, objectives and the intended target audience (e.g. paramedic, EMT–II, EMT–I, First Responder or all);

(3) CE provider name, as officially on file with the approving authority; and

(4) specification of the number of CE hours to be granted. Copies of all advertisements disseminated to the public shall be sent to the approving authority and the local EMS agency in whose jurisdiction the course, class, or activity is conducted prior to the beginning of the course, class, or activity. However, the approving authority or the local EMS agency may request that copies of the advertisements not be sent to them.

(o) When two or more CE providers co–sponsor a course, class, or activity, only one approved CE provider number will be used for that course, class, or activity and the CE provider, whose number is used, assumes the responsibility for meeting all applicable requirements of this Chapter.

(p) An approved CE provider may sponsor an organization or individual that wishes to provide a single course, class or activity. The approved CE provider shall be responsible for ensuring the course, class, or activity meets all requirements and shall serve as the CE provider of record. The approved CE provider shall review the request to ensure that the course, class, or activity complies with the minimum requirements of this Chapter.

NOTE: Authority cited: Sections 1797.107, 1797.172, 1797.174, 1797.175, 1797.185 and 1797.194, Health and Safety Code. Reference: Sections 1797.7, 1797.172, 1797.185 and 1797.214, Health and Safety Code.

HISTORY
1. New article 6 (section 100395) and section filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

Chapter 12. EMS System Quality Improvement

Article 1. Definitions

§ 100400. Emergency Medical Services System Quality Improvement Program.

"Emergency Medical Services System Quality Improvement Program" or EMS QI Program means methods of evaluation that are composed of structure, process, and outcome evaluations which focus on improvement efforts to identify root causes of problems, intervene to reduce or eliminate these causes, and take steps to correct the process and recognize excellence in performance and delivery of care.

NOTE: Authority cited: Sections 1797.103, 1797.107, 1797.174 and 1797.176, Health and Safety Code. Reference: Sections 1797.174, 1797.202, 1797.204, 1797.220 and 1798.175, Health and Safety Code.

HISTORY
1. New chapter 12 (articles 1–5), article 1 (sections 100400–100401) and section filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

§ 100401. EMS Service Provider.

"EMS Service Provider" means an organization employing certified EMT–I, certified EMT–II or licensed paramedic personnel for the delivery of emergency medical care to the sick and injured at the scene of an emergency, during transport, or during interfacility transfer.

NOTE: Authority cited: Sections 1797.107, 1797.174 and 1797.176, Health and Safety Code. Reference: Section 1797.174, Health and Safety Code.

HISTORY
1. New section filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

Article 2. EMS Service Provider

§ 100402. EMS Service Provider Responsibilities.

(a) An EMS service provider shall:

(1) Develop and implement, in cooperation with other EMS system participants, a provider–specific written EMS QI program, as defined in Section 100400 of this Chapter. Such programs shall include indicators, as defined in Section III and Appendix E of the Emergency Medical Services System Quality Improvement Program Model Guidelines, which address, but are not limited to, the following:

(A) Personnel
(B) Equipment and Supplies
(C) Documentation
(D) Clinical Care and Patient Outcome
(E) Skills Maintenance/Competency
(F) Transportation/Facilities
(G) Public Education and Prevention
(H) Risk Management

(2) Review the provider–specific EMS QI Program annually for appropriateness to the operation of the EMS provider and revise as needed.

(3) Participate in the local EMS agency's EMS QI Program that may include making available mutually agreed upon relevant records for program monitoring and evaluation.

(4) Develop, in cooperation with appropriate personnel/agencies, a performance improvement action plan when the EMS QI Program identifies a need for improvement. If the area identified as needing improvement includes system clinical issues, collaboration is required with the provider medical director and the local EMS agency medical director or his/her designee if the provider does not have a medical director.

(5) Provide the local EMS agency with an annual update, from date of approval and annually thereafter, on the provider EMS QI Program. The update shall include, but not be limited to, a summary of how the EMS provider's EMS QI Program addressed the program indicators.

(b) The EMS provider EMS QI Program shall be in accordance with the Emergency Medical Services Quality Improvement Program Model Guidelines (Rev. 3/04), incorporated herein by reference, and shall be approved by the local EMS agency. This is a model program which will develop over time and is to be tailored to the individual organization's quality improvement needs and is to be based on available resources for the EMS QI program.

(c) The provider EMS QI Program shall be reviewed by the local EMS agency at least every five years.

NOTE: Authority cited: Sections 1797.103, 1797.107, 1797.174 and 1797.176, Health and Safety Code. Reference: Sections 1797.174 and 1797.220, Health and Safety Code.

HISTORY
1. New article 2 (section 100402) and section filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

Article 3. Paramedic Base Hospital

§ 100403. Paramedic Base Hospital and Alternate Base Station Responsibilities.

(a) A paramedic base hospital and alternate base station shall:

(1) Develop and implement, in cooperation with other EMS system participants, a hospital–specific written in EMS QI program, as defined in Section 100400 of this Chapter. Such programs shall include indicators, as defined in Section III and Appendix E of the Emergency Medical Services System Quality Improvement Program Model Guidelines, which address, but are not limited to, the following:

(A) Personnel
(B) Equipment and Supplies
(C) Documentation
(D) Clinical Care and Patient Outcome
(E) Skills Maintenance/Competency
(F) Transportation/Facilities
(G) Public Education and Prevention
(H) Risk Management

(2) Review hospital–specific EMS QI Program annually for appropriateness to the operation of the base hospital or alternative base station and revise as needed.

(3) Participate in the local EMS agency's EMS QI Program that may include making available mutually agreed upon relevant records for program monitoring and evaluation.

(4) Develop, in cooperation with appropriate personnel/agencies, a performance improvement action plan when the base hospital or alternative base station EMS QI Program identifies a need for improvement. If the area identified as needing improvement includes system clinical issues, collaboration with the base hospital medical director or his/her designee or alternate base station medical director or his/her designee is required.

(5) Provide the local EMS agency with an annual update, from date of approval and annually thereafter, on the hospital EMS QI Program. The update shall include, but not be limited to, a summary of how the base hospital/alternate base station's EMS QI Program addressed the program indicators.

(b) The base hospital/alternate base station EMS QI Program shall be in accordance with the Emergency Medical Services Quality Improvement Program Model Guidelines (Rev. 3/04), incorporated herein by reference, and shall be approved by the local EMS agency. This is a model program which will develop over time and is to be tailored to the individual organization's quality improvement needs and is to be based on available resources for the EMS QI program.

(c) The base hospital/alternate base station EMS QI Program shall be reviewed by the local EMS agency at least every five years.

NOTE: Authority cited: Sections 1797.103, 1797.107, 1797.174 and 1797.176, Health and Safety Code. Reference: Sections 1797.174, 1797.220 and 1798.2, Health and Safety Code.

HISTORY

1. New article 3 (section 100403) and section filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

Article 4. Local EMS Agency

§ 100404. Local EMS Agency.

(a) The local EMS agency shall:

(1) Develop and implement, in cooperation with other EMS system participants, a system–wide written EMS QI program, as defined in Section 100400 of this Chapter. Such programs shall include indicators, as defined in Section III and Appendix E of the Emergency Medical Services System Quality Improvement Program Model Guidelines, which address, but are not limited to, the following:

(A) Personnel

(B) Equipment and Supplies

(C) Documentation

(D) Clinical Care and Patient Outcome

(E) Skills Maintenance/Competency

(F) Transportation/Facilities

(G) Public Education and Prevention

(H) Risk Management

(2) Review system–wide EMS QI Program annually for appropriateness to the system and revise as needed.

(3) Develop, in cooperation with appropriate personnel/agencies, a performance improvement action plan when the EMS QI Program identifies a need for improvement. If the area identified as needing improvement includes system clinical issues, collaboration is required with the local EMS agency medical director.

(4) Provide the EMS Authority with an annual update, from date of approval and annually thereafter, on the local EMS Agency's EMS QI Program. The update shall include, but not be limited to, a summary of how the local EMS Agency's EMS QI Program addressed the program indicators.

(b) The local EMS Agency EMS QI Program shall be in accordance with the Emergency Medical Services System Quality Improvement Program Model Guidelines (Rev. 3/04), incorporated herein by reference, and shall be approved by the EMS Authority. This is a model program which will develop over time and is to be tailored to the individual organization's quality improvement needs and is to be based on available resources for the EMS QI program.

(c) The local EMS Agency EMS QI Program shall be reviewed by the EMS Authority at least every five years.

NOTE: Authority cited: Sections 1797.103, 1797.107, 1797.174 and 1797.176, Health and Safety Code. Reference: Sections 1797.94, 1797.174, 1797.202, 1797.204, 1797.220 and 1798, Health and Safety Code.

HISTORY

1. New article 4 (section 100404) and section filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

Article 5. EMS Authority

§ 100405. EMS Authority.

(a) The EMS Authority shall:

(1) Develop and implement, in cooperation with other EMS system participants, a state–wide written EMS QI program, as defined in Section 100400 of the Chapter. Such programs shall include indicators, as defined in Section III and Appendix E of the Emergency Medical Services System Quality Improvement Program Model Guidelines, which address, but are not limited to, the following:

(A) Personnel

(B) Equipment and Supplies

(C) Documentation

(D) Clinical Care and Patient Outcome

(E) Skills Maintenance/Competency

(F) Transportation/Facilities

(G) Public Education and Prevention

(H) Risk Management

(2) Review state EMS QI Program annually for appropriateness to the state and revise as needed.

(3) Develop, in cooperation with appropriate personnel/agencies, a performance improvement action plan when the EMS QI Program identifies a need for improvement. If the area identified as needing improvement includes clinical issues, collaboration is required with the EMS Authority medical consultant.

(4) Provide the local EMS Agencies with an annual update on the EMS Authority's EMS QI Program. The update shall include, but not be limited to, a summary of how the EMS Authority's EMS QI Program addressed the state indicators.

(b) The EMS Authority EMS QI Program shall be in accordance with the Emergency Medical Services System Quality Improvement Program Model Guidelines (Rev. 3/04), incorporated herein by reference. This is a model program which will develop over time and is to be tailored to the individual organization's quality improvement needs and is to be based on available resources for the EMS QI program.

NOTE: Authority cited: Sections 1797.103, 1797.107, 1797.174 and 1797.176, Health and Safety Code. Reference: Sections 1797.54 and 1797.174, Health and Safety Code.

HISTORY

1. New article 5 (section 100405) and section filed 9–10–2004; operative 10–10–2004 (Register 2004, No. 37).

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Title 22. Social Security

Division 10. California Medical Assistance Commission

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Division 10. California Medical Assistance Commission

Chapter 1. Introduction

Article 1. Definitions

§ 100501. Definitions.

Unless otherwise specified, as used in this Division:

(1) Commission. "Commission" means the California Medical Assistance Commission.

(2) Contract. "Contract" means a written agreement, or amendments to such an agreement, between a health care provider and the State of California, the terms, services, and rate(s) of which were negotiated by the commission, its executive director, or the Office of Special Health Care Negotiations, or an amendment or modification to such agreement.

(3) Contractor. "Contractor" means a health care provider who is a party to a contract or who is negotiating a proposed contract.

(7) Members, Chairperson, Executive Director. "Members," "chairperson" and "executive director" mean respectively the members and chairperson of, and the executive director to the California Medical Assistance Commission.

NOTE: Authority cited: Sections 14082, 14082.5 and 14165.4, Welfare and Institutions Code. Reference: Sections 14081, 14082.5, 14165, 14165.1 and 14165.3, Welfare and Institutions Code.

HISTORY

1. New Division 10 (Chapters 1–3, Sections 100501–100527, not consecutive) filed 6–30–83 as an emergency; designated effective 7–1–83 (Register 83, No. 27). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–29–83.
2. Certificate of Compliance including amendment transmitted to OAL 10–28–83 and filed 12–27–83 (Register 83, No. 52).
3. Amendment filed 8–26–85 as an emergency effective upon filing (Register 85, No. 36). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12–24–85.
4. Certificate of Compliance as to 8–26–85 order transmitted to OAL 12–20–85 and disapproved; amendment refiled 1–23–86 as an emergency pursuant to Government Code Section 11346.1(h); effective upon filing (Register 86, No. 4). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5–23–86.
5. Order of Repeal of 1–23–86 order filed 6–18–86 by OAL pursuant to Government Code Section 11349.6(d) (Register 86, No. 28).

Article 2. Commission Meetings

§ 100503. Meeting Schedule.

The commission shall meet on a regular basis, once each month in Sacramento, California, or in such other location designated by the commission. Additional meetings may be scheduled or meetings rescheduled or cancelled or relocated by the chairperson or by vote of the commission.

NOTE: Authority cited: Sections 14082, 14082.5 and 14165.4, Welfare and Institutions Code. Reference: Sections 14165 and 14165.6, Welfare and Institutions Code.

HISTORY

1. Certificate of Compliance as to 6–30–83 order transmitted to OAL 10–28–83 and filed 12–27–83 (Register 83, No. 52).

§ 100505. Notice of Meetings.

NOTE: Authority cited: Sections 14082, 14082.5 and 14165.4, Welfare and Institutions Code. Reference: Sections 14165, and 14165.6, Welfare and Institutions Code.

HISTORY

1. Order of Repeal of 6–30–83 emergency order filed 11–28–83 by OAL pursuant to Government Code Section 11349.6 (Register 83, No. 52).

§ 100507. Commission Decisions.

NOTE: Authority cited: Sections 14082, 14082.5 and 14165.4, Welfare and Institutions Code. Reference: Sections 14165.6 and 14165.7, Welfare and Institutions Code.

HISTORY

1. Order of Repeal of 6–30–83 emergency order filed 11–28–83 by OAL pursuant to Government Code Section 11349.6 (Register 83, No. 52).

Article 3. Commission Staff

§ 100509. Hiring Staff.

NOTE: Authority cited: Sections 14082, 14082.5 and 14165.4, Welfare and Institutions Code. Reference: Section 14165.3, Welfare and Institutions Code.

HISTORY

1. Order of Repeal of 6–30–83 emergency order filed 11–28–83 by OAL pursuant to Government Code Section 11349.6 (Register 83, No. 52).

§ 100511. Supervision.

NOTE: Authority cited: Sections 14082, 14082.5 and 14165.4, Welfare and Institutions Code. Reference: Sections 14165.3 and 14165.5, Welfare and Institutions Code.

HISTORY

1. Order of Repeal of 6–30–83 emergency order filed 11–28–83 by OAL pursuant to Government Code Section 11349.6 (Register 83, No. 52).

Chapter 2. Negotiation and Approval of Proposed Contracts

§ 100513. General Responsibility.

NOTE: Authority cited: Sections 14082, 14082.5 and 14165.4, Welfare and Institutions Code. Reference: Sections 14165.5 and 14165.6, Welfare and Institutions Code.

HISTORY

1. Order of Repeal of 6–30–83 emergency order filed 11–28–83 by OAL pursuant to Government Code Section 11349.6 (Register 83, No. 52).

§ 100515. Approval of Contracts.

(a) After a contract is negotiated, the executive director hall, in writing, recommend its approval to the commission. Such recommendation shall be mailed to each commissioner not more than twenty (20) and not less than 15 days prior to the next scheduled meeting of the commission. The timely mailing of such written recommendation shall constitute "approval of the executive director" set forth in Section 14165.5 of the California Welfare and Institutions Code.

NOTE: Authority cited: Sections 14082, 14082.5 and 14165.4, Welfare and Institutions Code. Reference: Sections 14165.5 and 14165.6, Welfare and Institutions Code.

HISTORY

1. Order of Repeal of 6–30–83 emergency order (subsection (b) only) filed 11–28–83 by OAL pursuant to Government Code Section 11349.6 (Register 83, No. 52).
2. Certificate of Compliance including amendment of subsection (a) transmitted to OAL 10–28–83 and filed 12–27–83 (Register 83, No. 52).

§ 100517. Review by Legal Counsel.

NOTE: Authority cited: Sections 14082, 14082.5 and 14165.4, Welfare and Institutions Code. Reference: Sections 14165.5 and 14165.6, Welfare and Institutions Code.

HISTORY

1. Order of Repeal of 6–30–83 emergency order filed 11–28–83 by OAL pursuant to Government Code Section 11349.6 (Register 83, No. 52).

§ 100519. Commission Review of Contract Recommendations.

(a) At the meeting of the commission following the recommendation of the executive director in respect to any contract, the commission shall serve as a review body, and may, by majority vote:

(1) approve a proposed contract;

(2) disapprove a proposed contract;

(3) disapprove in part a proposed contract;

(4) disapprove a proposed contract subject to specified conditions;

(5) take other appropriate action upon the advise of the executive director.

(b) In the event the commission takes action pursuant to (a)(3) or (a)(4) above, such action is a disapproval of the entire proposed contract unless the contractor assents to such partial disapproval or specified conditions within ten (10) days following the commission meeting.

(c) Contracts shall be deemed approved by the commission if, within twenty (20) days after approval by the executive director, no action is taken by the commission pursuant to subparagraphs (1) through (4) above, unless such twenty days time limit is waived by the contractor.

NOTE: Authority cited: Sections 14082, 14082.5 and 14165.4, Welfare and Institutions Code. Reference: Sections 14165.5, 14165.6 and 14165.7, Welfare and Institutions Code.

HISTORY

1. Certificate of Compliance including amendment of subsections (a) and (b) transmitted to OAL 10–28–83 and filed 12–27–83 (Register 83, No. 52).

§ 100521. Waiver of Review.

When the commission has disapproved a contract pursuant to Section 100519, it may, at its option, waive review of the contract renegotiated in accordance with its specified conditions. Such conditions, to the extent they limit or direct the executive director's negotiations, shall be confidential.

NOTE: Authority cited: Sections 14082, 14082.5 and 14165.4, Welfare and Institutions Code. Reference: Sections 14165.5, 14165.6 and 14165.7, Welfare and Institutions Code.

HISTORY

1. Order of Repeal of 6–30–83 emergency order (subsection (a) only) filed 11–28–83 by OAL pursuant to Government Code Section 11349.6 (Register 83, No. 52).
2. Certificate of Compliance including amendment transmitted to OAL 10–28–83 and filed 12–27–83 (Register 83, No. 52).

§ 100523. Technical Alternations to Approved Contracts.

NOTE: Authority cited: Sections 14082, 14082.5 and 14165.4, Welfare and Institutions Code. Reference: Sections 14165.5, 14165.6 and 14165.7, Welfare and Institutions Code.

HISTORY

1. Order of Repeal of 6–30–83 emergency order filed 11–28–83 by OAL pursuant to Government Code Section 11349.6 (Register 83, No. 52).

§ 100525. Contracts Not Limited to Inpatient Services.

NOTE: Authority cited: Sections 14082, 14082.5 and 14165.4, Welfare and Institutions Code. Reference: Sections 14165.5, 14165.6, 14087.5 and 14089, Welfare and Institutions Code.

HISTORY

1. Order of Repeal of 6–30–83 emergency order filed 11–28–83 by OAL pursuant to Government Code Section 11349.6 (Register 83, No. 52).

Chapter 3. Confidentiality of Contract Negotiations

§ 100527. Confidentiality.

(a) All matters set forth in Section 6254(q) of the Government Code including but not limited to the contract negotiations of the executive director, contract recommendations, and deliberations of the commission relating to contract approval or disapproval as set forth in these regulations and recommendations of the Department of Finance or Department of Health Services to the commission, shall be confidential, and considered by the commission in closed session.

NOTE: Authority cited: Sections 14082, 14082.5 and 14165.4, Welfare and Institutions Code. Reference: Sections 6254(q) and 11127, Government Code.

HISTORY

1. Order of Repeal of 6–30–83 emergency order (subsection (b) only) filed 11–28–83 by OAL pursuant to Government Code Section 11349.6 (Register 83, No. 52).
2. Certificate of Compliance including amendment of subsection (a) transmitted to OAL 10–28–83 and filed 12–27–83 (Register 83, No. 52).

§ 100531. Procedure in Furtherance of Fair Competition in Contract Negotiations.

(a) Prior to beginning contract negotiations with any hospital:

(1) The Executive Director shall request that the hospital certify in writing that no individual participating in the negotiation on behalf of the hospital is also representing, providing consultation to, negotiating on behalf of, or otherwise participating in the contract negotiations for any other competing hospital; and

(2) The Executive Director shall request that the hospital demonstrate that it has obtained reasonable written assurances from individuals participating in the negotiations on its behalf that they will not collaborate or discuss the negotiations with any other individual who is not participating in the negotiations on behalf of said hospital. Such other individuals shall include but not be limited to individuals who may be representing, consulting with, negotiating on behalf of, or otherwise participating in the contract negotiations for any other competing hospital. Such assurances shall be in the form of written declarations under penalty of perjury.

(b) For purposes of this section the following definitions of terms shall apply:

(1) Competing hospital. A competing hospital is any hospital, under a different ownership, which is located in the same or a contiguous Health Facility Planning Area which is also in the process of negotiating a Medi–Cal contract with the Executive Director.

(2) Participate in negotiations. An individual is considered to participate in the negotiations on behalf of a hospital if he or she attends the negotiation sessions or is involved in preparing, approving or giving advice with respect to the hospital's negotiating strategy or contract proposal. However, an individual shall not be considered to participate in negotiations as a result of rendering educational or consultative services which do not involve a communication between the hospital and the individual regarding the specific content of a term of the hospital's contract proposal, or the specific content of a term of the contract under negotiation.

(c) The Executive Director shall refuse to negotiate with any hospital which does not provide certification or reasonable assurances as requested in accordance with the foregoing. For good cause shown, the Executive Director may, in the exercise of his sound discretion, waive, in writing, such certification or assurances.

(d) This statement is not intended to prohibit or restrict the disclosure of the terms of a negotiated binding contract to the extent that such disclosure is in accordance with applicable law.

(e) This section shall not apply in situations where the Executive Director has invited a group of hospitals to negotiate a contract as a unit pursuant to Welfare and Institutions Code Section 14087.26.

NOTE: Authority cited: Sections 14081, 14082, 14082.5, 14087.26 and 14165.4, Welfare and Institutions Code. Reference: Sections 14081, 14165 and 14165.5, Welfare and Institutions Code.

HISTORY

1. New section filed 4–13–84 as an emergency; effective upon filing (Register 84, No. 15). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–11–84.
2. Certificate of Compliance including amendment of subsections (a) and (b)(2) transmitted to OAL 8–10–84 and filed 9–5–84 (Register 84, No. 36).

Chapter 4. Conflict of Interest Code

§ 100540. General Provisions.

The Political Reform Act, Government Code Sections 81000 et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Code Regs. Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which m;ay be amended by the Fair Political Practices Commission after public notice and hearings. Therefore, the terms of California Code of Regulations, title 2, section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference and, along with the attached Appendix in which officials and employees are designated and disclosure catego-

ries are set forth, constitute the Conflict of Interest Code of the California Medical Assistance Commission.

Designated employees shall file statements of economic interests with the California Medical Assistance Commission, and the California Medical Assistance Commission will make the statements available for public inspection and reproduction. (Gov. Code, §81008.) Upon receipt of the statements of the Commissioners and Executive Director, the California Medical Assistance Commission shall make and retain a copy and forward the original of these statements to the Fair Political Practices Commission. Original statements for all other designated employees will be retained by the California Medical Assistance Commission, and copies will be provided to the Office of the Governor.

NOTE: Authority cited: Sections 14082, 14082.5 and 14165.4, Welfare and Institutions Code; and Section 11152, Government Code. Reference: Sections 87300–87302 and 87306, Government Code.

HISTORY

1. New Chapter 4 (Section 100540 and Appendix) filed 4–27–88, operative 5–27–88. Approved by Fair Political Practices Commission 3–25–88 (Register 88, No. 18). For history of former Chapter 4 (Sections 100540–100559), see Register 86, No. 28.
2. Amendment of section and Appendix filed 2–23–2007; operative 3–25–2007. Approved by Fair Political Practices Commission 1–8–2007 (Register 2007, No. 8).

Appendix A

A. Designated Employees

(1) Persons holding the following positions are "designated employees:"

	Assigned Disclosure Category
Commissioner	1
Executive Director	1
General Counsel	1
Supervising Negotiator	2
Senior Negotiator	2
Associate Negotiator	2
Director of Research	2, 3
Office Manager	4
Consultant*	1

B. Disclosure Categories

(1) A designated employee in this category shall report all interests in real property in the State of California, as well as investments, business positions and sources of income including gifts, loans, and travel payments.

(2) A designated employee in this category shall report all investments, business positions and income, including gifts, loans and travel payments from health care related sources, of the type negotiated by the California Medical Assistance Commission.

(3) A designated employee in this category shall report all investments, business positions and income, including gifts, loans and travel payments from sources that provide information technology systems including: hardware, software, equipment, or consulting services, of the type utilized or the California Medical Assistance Commission.

(4) A designated employee in this category shall report all investments, business positions and income, including gifts, loans and travel payments, from sources that provide goods, equipment, vehicles, machinery, leased facilities, or services, including training or consulting services, of the type utilized by the California Medical Assistance Commission.

*With respect to consultants, the Executive Director may determine in writing that a particular consultant, although a "designated position," is by contract hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and based upon that description, a statement of the extent of disclosure requirements. The Executive Director's determination is a public record and shall be retained for public inspection in the same manner and location as the statements of economic interests filed under this conflict of interest code.

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Division 11. Department of Community Services and Development

Chapter 1. Community Services Block Grant Regulations

§ 100601. Definitions.

For the purposes of these regulations:

(a) "Affected public" means interested parties and eligible entities as defined in Government Code Section 12730(e).

(b) "CAA" means community action agency as defined in Government Code Section 12750(a).

(c) "CCSBG" means California Community Services Block Grant.

(d) "Contract" means a statement of grant action which when cosigned by authorized agents of the Department and the grantee, and subsequently approved by the Department of General Services pursuant to Section 10295 of the Public Contract Code, is deemed a valid, enforceable agreement.

(e) "CSA" means Community Services Administration.

(f) "CSBG" means Community Services Block Grant.

(g) "Indian tribe" and "tribal organization" means those tribes, bands, or other organized groups of Indians recognized in the State in which they reside or considered by the Secretary of the Interior to be an Indian tribe or an Indian organization for any purpose.

(h) "LPA" means limited purpose agency as defined in Government Code Section 12775(a).

(i) "MSFW" means Migrant and Seasonal Farmworker as defined in Section 100620 of these regulations.

(j) "DEO" means State Department of Economic Opportunity as defined in Government Code Section 12085.

(k) "Target Area" means a contiguous territory with a high incidence of poverty in which a grantee concentrates or desires to concentrate its operations.

(*l*) "Reasonable Opportunity" as used in Government Code Section 12730(k)(2), shall mean a period of 90 days from the date notice is sent to the designated CAA stating that it has failed to comply with the requirements of Government Code Section 12725 et. seq.

NOTE: Authority cited: Section 12781(d), Government Code. Reference: Section 12725 et seq., Government Code.

HISTORY

1. New division 11 (sections 100601–100795, not consecutive) filed 12–12–85; designated effective 12–31–85 pursuant to Government Code section 11346.2(d) (Register 85, No. 50).
2. Change without regulatory effect amending subsections (b), (d), (h), (j), (*l*) and NOTE filed 12–20–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).
3. Change without regulatory effect amending division heading filed 1–28–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 5).

§ 100605. Tripartite Board Composition.

(a) Tripartite Board Composition.

(1) Any community action agency which is an eligible entity to receive funding under CSBG shall have a tripartite board as described in the Government Code Sections 12750(a)(2) and 12751.

(2) If an eligible CAA is a public CAA which has the additional requirements of a governing board composed of officials of the local political subdivision such as the county board of supervisors or city council, a community action board shall be established to satisfy the tripartite board requirement.

(3) The community action board shall have at least 12 members and not more than 30 members. The membership of the board shall be divisible by 3 in order to implement the tripartite requirement as stated in Government Code Section 12751.

(b) Public Sector Representation.

(1) For the purpose of Government Code Section 12751(a), appointive public officials are defined to include employees of agencies and members of boards established under State or local law who have the responsibility and authority to decide and carry out the policy of those agencies or boards.

(2) Public officials who are designated for representation on the community action board may choose representatives to serve on the board in their place or in their absence. The representatives need not be Public officials themselves so long as they are entitled to speak and act for the officials whom they represent in connection with the board's business.

(c) Low–Income Representatives.

(1) "Democratic selection process" for the purposes of this article, shall be defined as a methodology reflecting the choice(s) of the people.

(2) Although representatives of the poor need not themselves be poor, they must nonetheless be selected in a manner which ensures they truly represent the poor.

(3) Area Representatives of Low–Income Persons. Should a community action program be concerned primarily with compact geographic areas in which poverty is concentrated, such as neighborhoods or "target areas" of the community, the representatives of the low–income shall be selected by the residents of those neighborhoods or areas. All residents of any such neighborhood or area may participate in the selection process, but special emphasis and attention must be given to ensuring that those residents who are poor participate fully in the selection process. The number of representatives to be selected from each area of concentration of poverty, in relation to the total number of representatives of the low–income on the board, should be proportionate to the number of low–income persons in the area, as compared to the number of low–income persons in the community as a whole.

(4) Non–area Representatives of Low–Income Persons. In some communities or parts of communities it may not be feasible for some or all of the representatives of the poor to be selected on a neighborhood or target area basis (for example, in a rural community where poor persons are scattered throughout the entire area or, in an urban community where there may be a neighborhood in which poverty is concentrated, but where poor people reside outside such neighborhoods). In such cases, representatives of the low–income population shall be selected only by the low–income population, whom the community action program is intended to serve and who reside outside of areas where poverty is concentrated. The non–area representatives should themselves live outside of any target areas separately represented under subsection (3) of this section. The number of such "non–area" representatives, in relation to the total number of representatives of the low–income on the board, should also be proportionate to the number of low–income persons living outside geographic areas in which poverty is concentrated, as compared to the number of low–income persons in the community as a whole.

(5) Selecting Representatives of Low–Income Persons. In the selection process, whether for area or non–area representatives of the poor, to the maximum extent possible, the low–income groups and individuals to be represented should be involved. Among the selection processes that may be utilized, either alone or in combination, are:

(A) Nominations and elections, either within neighborhoods, or within the community as a whole.

(B) Selection at a meeting or conference to which all neighborhood residents, and especially those who are poor, are invited.

(C) Selection of representatives to a community–wide board by members of neighborhood or sub–area boards, who are themselves, selected by neighborhood or area residents.

(D) Selection, on a small area basis (such as a city block), of representatives who in turn select members for a community–wide board.

(E) Selection of representatives, either directly to a Community Action Board or for membership on a neighborhood board, by existing organizations whose membership is predominantly composed of low–income persons.

(F) This list is not intended to limit the variety of selection processes which may be used. Any democratic selection process ensuring the maximum feasible participation of the poor is potentially acceptable. In all cases attention should be given to the fair representation of significant minority groups within the community.

(6) The designating officials of a CAA shall select candidates for low-income seats, who are declared low-income over persons desiring to represent the low-income community, who are not declared low-income.

(d) Private Sector Representation.

(1) In choosing private sector participation CAA's shall select groups and interests to ensure that the board is securing broad community involvement.

(2) Once the groups and interests to be represented have been selected, their respective representatives on the board shall be chosen by those groups and interests.

NOTE: Authority cited: Section 12781(d), Government Code. Reference: Section 12751, Government Code.

HISTORY

1. Change without regulatory effect amending subsections (a)(1), (b)(1) and NOTE and repealer of subsection (a)(4) filed 12–20–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100610. Designation and Recognition of a New or an Alternate CAA.

(a) Process for Designation. A political subdivision seeking designation of a new or alternate CAA, shall follow all the requirements set forth below as follows:

(1) Notice of Intent to Designate. A written notice of intent to designate shall be prepared by the political subdivision which shall designate a new or alternate community action agency. This notice shall be posted in a public place, mailed to the Department, and mailed to municipalities within the political subdivision and shall be placed in the newspaper having the widest circulation within the political subdivision. The notice shall clearly indicate the following:

(A) Indicate any specific proposal for designation.

(B) Indicate that testimony will be taken at the public hearing.

(C) The date, time and location of the public hearing to consider the question of CAA designation.

(D) Advise the public of the opportunity to submit written comments to the political subdivision prior to the public hearing.

Public Hearings. The public hearings for designation of recognition of a new or alternate CAA, shall be carried out pursuant to the local laws (i.e., statutes, ordinances, or regulations) governing public hearings, normally adhered to by the political subdivision to assure the public has an opportunity to comment on the CAA designation process.

(3) Legislative passage of an Act, Ordinance or Resolution of Designation. Having conducted at least one public hearing, the political subdivision shall make a designation in the same manner in which they normally exercise their legislative jurisdiction.

(4) Application for Recognition. After a political subdivision has made a designation, the designator shall submit to DEO two copies of an application for provisional recognition as a CAA. This application is composed of the following documents:

(A) Statement requesting recognition as a community action agency.

(B) The designation documents (i.e., act, ordinance, or resolution) together with the certification documents from the political subdivision.

(C) The notice of intent to designate and a list of the locations where such notice was posted as proof of newspaper publication.

(D) Minutes of the public hearing during which the CAA was designated.

(b) Granting of Recognition. After determining that all of the aforementioned requirements have been met, DEO will grant to the applicant agency provisional recognition.

(1) Upon receipt of the notification of provisional recognition status, the applicant shall proceed to organize itself, to select and appoint the members of its governing or administering board, to formally adopt bylaws and to otherwise prepare itself for final recognition.

(2) An applicant who has received provisional recognition shall submit a map of the area to be served by the applicant to DEO.

(3) Upon receipt of the above indicated items, DEO will review same to determine whether or not the applicant has complied with all pertinent requirements of Section 12750 et seq. of the Government Code and the Community Services Block Grant Program. Upon DEO's determination that the applicant has satisfied all compliance requirements, the Department will provide written notification to the applicant that final recognition has been granted.

NOTE: Authority cited: Sections 12781(d) and 12780. Government Code. Reference: Sections 12750 et seq. and 12781(c)(5), Government Code.

HISTORY

1. Change without regulatory effect amending subsections (a)(1), (a)(4), (b), (b)(2)–(3) and NOTE filed 12–20–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100615. Bylaws.

Community action agencies shall submit to DEO a copy of their current bylaws. Any amendments to the bylaws shall be submitted to DEO prior to the adoption of such amendments. However, DEO approval of bylaw amendments is not required prior to the adoption of such amendments.

NOTE: Authority cited: Section 12781(d), Government Code. Reference: Section 12753(a), Government Code.

HISTORY

1. Change without regulatory effect amending section and NOTE filed 12–20–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100620. MSFW Beneficiaries.

(a) For the purposes of these regulations "Migrant Farmworker" shall mean a seasonal farmworker who performs or has performed farmwork during the eligibility determination period (any consecutive 12–month period within the 24–month period preceding application for program benefits and/or services) which requires travel such that the worker is unable to return to his/her domicile (permanent place of residence) within the same day.

(b) For purposes of these regulations "Seasonal Farmworker" shall mean a person who during the eligibility determination period (any consecutive 12–month period within the 24–month period preceding application for program benefits and/or services) was employed at least 25 days in farmwork or earned at least $400 in farmwork; and who has been primarily employed in farmwork on a seasonal basis, without a constant year round salary.

NOTE: Authority cited: Section 12781(d), Government Code. Reference: Section 12765, Government Code.

HISTORY

1. Change without regulatory effect amending NOTE filed 12–20–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100651. Grant Application.

The grant application shall include the local plan.

NOTE: Authority cited: Section 12781(d), Government Code. Reference: Section 12747, Government Code.

HISTORY

1. Change without regulatory effect amending NOTE filed 12–20–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100655. Determination of Services.

Pursuant to the requirements specified in Section 12747 of the Government Code, local plans shall adhere to the format prescribed in the Request for Local Plan annually issued by the Department.

NOTE: Authority cited: Section 12781(d), Government Code. Reference: Sections 12747, Government Code.

HISTORY

1. Change without regulatory effect amending section and NOTE filed 12–20–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100660. Accounting System Certification.

All new grantees selected for funding under the CSBG program shall submit an accounting system report, prior to receiving funds on a form

prescribed by the Department and signed by an independent certified public accountant or an independent State-licensed public accountant, or, in the case of a public agency, the financial officer responsible for providing required financial services to the grantee. The report shall state that the new grantee has established an adequate accounting system with reasonable assurance as to the internal controls to safeguard assets, check the accuracy and reliability of their accounting data, promote operating efficiency, and assure compliance with any other fiscal requirements provided for by law.

NOTE: Authority cited: Section 12781(d), Government Code. Reference: Section 12781(c)(1)(A), Government Code.

HISTORY

1. Change without regulatory effect amending section and NOTE filed 12-20-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100665. Discretionary Funds.

The Department shall distribute discretionary funds set aside pursuant to Government Code Section 12786.

NOTE: Authority cited: Section 12781(d), Government Code. Reference: Section 12786, Government Code.

HISTORY

1. Change without regulatory effect amending section and NOTE filed 12-20-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100701. Discontinued Funding.

No funds provided under CSBG shall be used to replace disallowed, reduced, or terminated state or local funds.

NOTE: Authority cited: Section 12781(d), Government Code. Reference: Section 12761, Government Code.

HISTORY

1. Change without regulatory effect amending NOTE filed 12-20-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100705. Delegation Agreement.

Every delegate agency which enters into a delegation agreement, pursuant to Government Code Section 12750(c), shall adhere to the covenants and conditions contained in the statement of grant action governing the delegation of services and activities.

NOTE: Authority cited: Section 12781(d), Government Code. Reference: Section 12750(c), Government Code.

HISTORY

1. Change without regulatory effect amending NOTE filed 12-20-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100715. Budget Flexibility and Indirect Cost Rates.

(a) The following provisions shall apply to budget flexibility:

(1) No originally approved budget line item may be increased or decreased by more than 10%, without prior DEO approval.

(2) This flexibility is the total flexibility to be allowed in any one program year without prior DEO approval.

(b) Changes made within flexibility (as well as those made beyond flexibility with DEO prior approval) must be reflected immediately on the quarterly Financial Progress Report.

(c) For purposes of allocating indirect costs, grantees may use current negotiated indirect cost rates that have been approved by a cognizant Federal agency.

(1) Grantees shall submit to the Department for review the approved cost allocation plans that support the indirect cost rates set forth in the proposed budget at the time the budget is submitted, and a copy of the letter of approval from the cognizant agency which includes date of approval and amount of rate.

(2) All expenditures distributed to indirect costs shall be subject to audit.

NOTE: Authority cited: Section 12781(d), Government Code. Reference: Section 12781(c)(1)(C), Government Code.

HISTORY

1. Change without regulatory effect amending subsections (a)(2), (b), (c)(1) and NOTE filed 12-20-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100720. Procurement Standards.

Grantees shall comply with the procurement standards set forth in the Office of Management and Budget Circular (OMB) A-110, dated 7/30/76, Attachment O, Sections 1 through 4b and 4h through 4j, or OMB Circular A-102, dated 9/12/77, Attachment O, Section 1 through 4b and 4g through 4i, and other applicable federal laws or regulations which may supercede these procurement standards.

NOTE: Authority cited: Section 12781(d), Government Code. Reference: Section 12781(c)(2), Government Code.

HISTORY

1. Change without regulatory effect amending NOTE filed 12-20-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100725. Property Management/Disposition Standards and Procedures.

Grantees shall comply with property management standards, set forth in the Office of Management and Budget (OMB) Circular A-110, dated 7/30/76, Attachment N, Sections 1 through 3 and 5 through 8 or OMB Circular A-102, dated 9/12/77, Attachment N, Sections 1 through 3 and 5 through 9, and other applicable federal laws or regulations which may supercede these property management/disposition standards.

NOTE: Authority cited: Section 12781(d), Government Code. Reference: Section 12781(c)(3), Government Code.

HISTORY

1. Change without regulatory effect amending NOTE filed 12-20-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100730. Monitoring and Periodic Evaluation.

(a) Grantee's Responsibilities. Grantees shall constantly monitor their performance under grant supported activities to assure that time schedules are being met, projected work units by time periods are being accomplished, and other performance goals are being achieved. This review shall be made for each program, function, or activity of each grant as set forth in the approved grant agreement.

(1) Each grantee shall prepare a quarterly program progress report on the form designated by the Department. Each report shall be submitted to the Department no later than thirty calendar days following the subject quarter.

(2) The performance report for each goal shall include, but not be limited to the following:

(A) Description of actual accomplishments compared to the objective established for the reporting period. The result of activities should be quantified wherever possible.

(B) Reasons why established objectives were not met.

(C) Other information as appropriate.

(b) DEO shall monitor and evaluate the performance of functions, projects and activities supported by CSBG funds frequently enough to ensure that these grant supported activities are accomplished as set forth in the statement of grant action and that CSBG funds are properly disbursed.

NOTE: Authority cited: Section 12781(d), Government Code. Reference: Section 12781(f), Government Code.

HISTORY

1. Change without regulatory effect amending subsections (a)(1), (b) and NOTE filed 12-20-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100735. Financial Progress Reports and Audits.

(a) Each grantee shall prepare a quarterly financial progress report for each CSBG grant award on a form prescribed by the Department. Each report shall be submitted to the Department no later than fifteen (15) calendar days following the applicable quarter.

(b) Within ninety (90) calendar days of the completion or termination of the contract the grantee shall submit three (3) copies of the report of financial and compliance grant audit.

(c) Financial and compliance audits shall be conducted in accordance with federal requirements issued by the Office of Management and Budget and in conformance with standards promulgated by the American Institute of Certified Public Accountants and those standards included in "Standards for Audit of Governmental Organizations, Programs, Activi-

ties and Functions," issued by the Comptroller General of the United States.

(d) Agency–wide or single audits prepared in accordance with the Office of Management and Budget Circular A–102 (Attachment P) dated 9/12/77 for local governments, and Office of Management and Budget Circular A–110, dated 7/30/76, for nonprofit corporations, and other applicable federal laws or regulations which may be implemented will fulfill these audit requirements.

NOTE: Authority cited: Section 12781(d), Government Code. Reference: Section 12781(c)(l)(B), Government Code.

HISTORY

1. Change without regulatory effect amending subsection (a) and NOTE filed 12–20–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100740. Grant Closeouts for Terminated Grantees.

(a) All grant closeouts shall be conducted in accordance with the guidelines set forth in the Office of Management and Budget Circular A–102 (Attachment L) dated 9/12/77 for public agencies, and Circular A–110 (Attachments K and L) dated 7/30/76 for nonprofit organizations, and other applicable federal laws or regulations which may supercede these grant closeout procedures.

(b) Grantee shall submit all grant closeout documents including final financial, performance, and other reports required as a condition of the statement of grant action no later than ninety (90) calendar days following the date of termination of the contract.

NOTE: Authority cited: Section 12781(d), Government Code. Reference: Section 12781(e), Government Code.

HISTORY

1. Editorial correction of printing error in subsection (b) (Register 91, No. 32).
2. Change without regulatory effect amending NOTE filed 12–20–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100745. Substantial Noncompliance.

For the purposes of Section 12781(c)(4) of the Government Code, "substantial noncompliance" shall mean a material breach of the terms and conditions of the CSBG contract. A breach of contract is material if it violates a substantial right or interest granted under the contract.

NOTE: Authority cited: Section 12781(d), Government Code. Reference: Section 12781(c)(4), Government Code.

HISTORY

1. Change without regulatory effect amending section and NOTE filed 12–20–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100751. Due Process Rights for Clients Denied Services.

(a) Any person who has applied for benefits and/or services, provided under a contract or delegation agreement with the Department, whose application has been denied has the right to appeal such action to the grantee. For purposes of this section, the Department will consider that there has been a denial of assistance when:

(1) The benefits, services and/or funds currently are available and;

(2) The grantee has the authority to provide or disburse such benefits, services and/or funds and;

(3) The applicant meets or believes that he/she can prove that he/she meets program eligibility criteria.

(b) Each grantee shall establish and make known to all applicants, procedures for the review of partial or complete denial of assistance to any person or household. If the grantee has an existing appeal process which includes the following elements, its continued use will satisfy the requirements of this section. If, however, the grantee has a procedure which excludes any of the elements below it shall be amended to include those factors which are excluded.

(1) Provisions for notifying the applicant in writing of the reasons for denial of assistance and that he/she may request a review of the denial and may submit additional information (in writing or orally) which the applicant believes would warrant a favorable determination.

(2) Provisions for reviewing the denial of an application for assistance in an expeditious manner if such is requested by the applicant. This shall include the specific assignment of responsibility to a senior level official or standing committee other than the person making the initial determination.

(3) Provisions for expeditiously notifying the applicant in writing of the grantees final decision.

(4) The methods the agency will employ to publicize the existence of the appeals process.

(5) Provisions for ensuring that every effort will be made to provide persons who do not comprehend English with written materials and procedures in the appropriate languages.

(6) Provisions for the retention of documents relating to specific denials of assistance and action(s) taken by the grantee. Such records must be maintained in the grantee's files for three years and shall be available for review by DEO officials upon request.

(c) A written description of the aforementioned required procedures shall be maintained on file by the grantee and shall be available for public inspection.

(d) Any person who has applied for benefits and/or services, provided under a subgrant or contract with the Department, whose application has been denied and who has exhausted all grantee appeal rights, may appeal the denial of assistance to the Department. Should the appeal remain unresolved and the applicant desires to appeal further, the written appeal and all other supportive documentation must be received by the responsible Department official within twenty (20) calendar days of the grantee's final decision.

(e) Under no circumstances shall the grantee or the Department waive the applicant's right to appeal.

NOTE: Authority cited: Section 12781(d)(2), Government Code. Reference: Section 12781(d)(2), Government Code.

HISTORY

1. Change without regulatory effect amending subsections (a), (b)(6), (d), (e) and NOTE filed 12–20–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100755. Partisan Political Activities.

(a) Neither the Community Services Block Grant Program nor the funds provided therefore, nor the personnel employed in the administration of the program shall in any way or to any extent engage in the conduct of political activities in contravention of Chapter 15 of Title 5, United States Code and in accordance with Section 675(e) of Public Law 97–35 (42 U.S. 9904(e)).

(b) Neither the Community Services Block Grant Program nor the funds provided therefor, nor the personnel employed in the administration of the program, shall provide voters and prospective voters with transportation to the polls or provide similar assistance in connection with an election or any voter registration activity.

NOTE: Authority cited: Section 12781(d), Government Code. Reference: Section 12736(i) and 12781(g), Government Code.

HISTORY

1. Change without regulatory effect amending NOTE filed 12–20–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100760. Non–Discrimination.

(a) A grantee will not discriminate against any employee or applicant for employment because of race, sex, creed, color, religion, or national origin. Also, prohibition against discrimination on the basis of age or with respect to an otherwise qualified handicapped individual shall apply. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, religion, sex, age, handicap or national origin. Such action shall include, but shall not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The grantee agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(b) A grantee will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, handicap, age, sex or national origin.

(c) A grantee will send to each labor union representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided by the contracting officer, advising the labor union representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September24, 1985, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) A grantee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the U.S. Secretary of Labor.

(e) Grantee will comply with all provisions of Title VI and VII of the Civil Rights Act of 1964, as amended.

NOTE: Authority cited: Section 12781(d), Government Code. Reference: Section 12781(g), Government Code.

HISTORY

1. Change without regulatory effect amending subsection (c) and NOTE filed 12–20–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100765. Public Access to Records.

Any person who wishes to inspect or copy records regularly maintained by a grantee may do so after making a request. Information and records will be made available to the requestor in accordance with the Freedom of Information Act (5 U.S.C. 552), except for information and records which are exempt from the requirements of disclosure pursuant to the Federal Privacy Act of 1974, as amended.

NOTE: Authority cited: Section 12781(d), Government Code. Reference: Section 12781(g), Government Code.

HISTORY

1. Change without regulatory effect amending NOTE filed 12–20–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100770. Significant Numbers.

(a) In ascertaining if "significant numbers" of eligible beneficiaries have petitioned the political subdivision for reconsideration of the subdivision's designation of a particular CAA, the political subdivision must consider the following factors when reviewing the petitions:

(1) The number of petitions which seek reconsideration;

(2) The relative frequency of petitions;

(3) The validity of the complaint in the petitions; and

(4) The gravity of the complaint contained in the petition.

(b) Each political subdivision must apply the aforementioned factors to each petition received charging noncompliance, on a case by case basis. If after reviewing all petition(s) received, the political subdivision is satisfied that the complaints contained in a reasonable number of petitions are valid then such political subdivision will be deemed to have been petitioned by a significant number.

NOTE: Authority cited: Section 12781(d), Government Code. Reference: Section 12750.1(a)(3), Government Code.

HISTORY

1. Change without regulatory effect amending NOTE filed 12–20–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100775. Revocation of Recognition and Designation by DEO.

The Director of the Department may revoke the recognition and/or the designation of a community action agency which has failed to comply with the requirements of Government Code Section 12725 et seq. only after complying with the following conditions:

(a) The grantee's contract has been terminated pursuant to California Code of Regulations Section 100780;

(b) The grantee has been provided a reasonable opportunity to comply with the requirements of this Article pursuant to California Code of Regulations Section 100601, and has failed to do such; and

(c) The Department has obtained authority to terminate the contract from the Secretary of the U.S. Department of Health and Human Services, if applicable, pursuant to Section 676 A of the Community Services Block Grant Act, (42 U.S.C. 9905A).

NOTE: Authority cited: Section 12781(d), Government Code. Reference: Section 12781(c) and (d), Government Code.

HISTORY

1. Change without regulatory effect amending opening paragraph, subsections (a)–(c) and NOTE filed 12–20–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100780. Denial of Refunding, Suspension and Termination of Contract Procedures.

(a) Purpose and Scope—This section establishes the rules and procedures governing the denial of refunding and the suspension and termination of contracts. This section shall not apply to any administrative action based upon any violation or alleged violation of Title VI of the Civil Rights Act of 1964. In case of such violations or alleged violations, the provisions of 45 CFR Part 1010 shall apply.

(b) Definitions.

(1) The term "termination" means the cancellation by the Department of state and or federal assistance in whole or in part, under a contract at any time prior to the time of completion.

(2) The term "suspension" means an action taken by the Department which temporarily suspends state and/or federal assistance under the contract, pending DEO's decision to terminate the contract.

(3) The term "responsible Department official" means the Director, Deputy Director, or any other official who is authorized to make the contract in questions, or the designee of any of these officials.

(c) Failure to Comply with Contract Terms and Conditions.

When a grantee has materially failed to comply with the contract terms and conditions, the Department may suspend the contract in whole or in part.

(d) Suspension Notice.

(1) The responsible Department official shall notify the grantee in writing that the Department intends to suspend a contract, in whole or in part, unless good cause is shown why the contract should not be suspended. The notice shall specify the grounds for the proposed suspension, the proposed effective date of suspension and the grantee's right to submit written material in opposition to the intended suspension and of its right to request an informal meeting at which the grantee may respond with an attempt to show cause why such suspension should not occur. The period of time within which the grantee may submit such written material or request the informal meeting shall be specified in the notice of intent to suspend and shall be no less than 5 days after the notice has been sent. If the grantee requests a meeting, the responsible Department official shall set a time and place for the meeting, which shall not be less than 5 days after the grantee's request is received by the Department. In lieu of the right of the grantee to request an informal meeting, the responsible Department official may on his/her own initiative establish a time and place for such a meeting. In no event, however, shall such a meeting be scheduled less than 7 days after the notice of intent to suspend has been sent to the grantee. The responsible Department official may extend the periods of time or dates previously referred to and shall notify the grantee of any such extension.

(2) At the time the responsible Department official sends the notice of intent to suspend the grantee, he/she shall also send a copy of it to any delegate agency whose activities or failure to act are a substantial cause of the proposed suspension, and shall inform such delegate agency that it shall be entitled to submit written material or to participate in the informal meeting referred to in subparagraph (d) (1) of this section. The responsible Department official may give such notice to any other delegate agency.

(3) Within 3 days of receipt of the notice, the grantee shall send a copy of these regulations to all delegate agencies which would be financially affected by the proposed suspension action. Any delegate agency which wishes to submit written material may do so within the time stated in the notice. Any delegate agency that wishes to participate in the informal meeting may request permission to do so from the responsible Department official, who may in his/her discretion, grant or deny such permission. In acting upon any such request from a delegate agency, the responsible Department official shall take into account the effect of the proposed suspension on the particular delegate agency, the extent to

which the meeting would become unduly complicated as a result of granting such permission, and the extent to which the interest of the delegate agency requesting such permission appears to be adequately represented by other participants.

(4) In the notice of intent to suspend, the responsible Department official shall invite voluntary action to adequately correct the deficiency which led to the initiation of the suspension proceeding.

(5) The responsible Department official shall consider any timely material presented to him/her during the course of the informal meeting provided for in subparagraph (d) (1) of this section, as well as any showing that the grantee has adequately corrected the deficiency which led to the initiation of suspension proceedings. If after considering the material presented to him/her, the responsible Department official concludes the grantee has failed to show cause why the contract should not be suspended, he/she may suspend the grant in whole or in part and under such terms and conditions as he/she shall specify.

(6) Notice of such suspension shall be promptly transmitted to the grantee and shall become effective upon delivery. Suspension shall not exceed a 30 day period unless during such period of time, termination proceedings are initiated or unless the responsible DEO official and the grantee agree to a continuation of the suspension for an additional period of time. If termination proceedings are initiated, the suspension shall remain in full force and effect until such proceedings have been fully concluded.

(7) During a period of suspension, no new expenditures shall be made by the grantee and no new obligations shall be incurred in connection with the suspended program except as specifically authorized in writing by the responsible Department official. Expenditures to fulfill legally enforceable commitments made prior to the notice of suspension, in good faith and in accordance with the grantee's approved work program, and not in anticipation of suspension or termination, shall not be considered new expenditures. However, funds shall not be recognized as committed solely because the grantee has obligated them by contract or otherwise to a delegate agency.

(8) The responsible Department official may in his/her discretion modify the terms, condition and nature of the suspension or rescind the suspension action at any time on his/her own initiative or upon a showing satisfactory to him/her that the grantee has adequately corrected the deficiency which led to the suspension and that repetition is not threatened. A suspension partly or fully rescinded may, in the discretion of the responsible Department official, be reimposed with or without further proceeding. Provided, however, that the total time of suspension may not exceed 30 days unless termination proceedings are initiated in accordance with Department policies and procedures governing the termination of contracts or unless the responsible Department official and the grantee agree to a continuation of the suspension for an additional period of time. If termination proceedings are initiated, the suspension shall remain in full force and effect until such proceedings have been fully concluded.

(e) Notice and Pre-hearing Procedures.

(1) If the responsible DEO official believes a grantee's violation of the terms and conditions of its contract is sufficiently serious to warrant termination, whether or not the contract has been suspended, he/she shall state that there appears to be grounds which warrant termination and shall set forth the specific reasons therefor. If the reason(s) result in whole or substantial part from the activities of a delegate agency, the notice shall identify that delegate agency. The notice shall also advise the grantee that the matter has been set down for hearing at a stated time and place in accordance with paragraph (f) of this section. In the alternative, the notice shall advise the grantee of its right to request a hearing and shall fix a period of time which shall not be less than 10 days, in which the grantee may request such a hearing.

(2) Termination hearings shall be conducted in accordance with the provisions of paragraphs (g) and (h) of this section. They shall be scheduled for the earliest practicable date, but not later than 30 days after a grantee has requested such a hearing. Consideration shall be given to a request by a grantee to advance or postpone the date of a hearing scheduled by the Department. Any such hearing shall afford the grantee a full and fair opportunity to demonstrate that it is in compliance with all applicable laws, regulations, and other requirements. In any termination hearing, the Department shall have the burden of justifying the proposed termination. However, if the basis of the proposed termination is the failure of a grantee to take action required by law, regulation, or other requirement, the grantee shall have the burden of proving that such action was timely taken.

(3) If a grantee requests that the Department hold a hearing in accordance with subparagraph (e)(1) of this section, it shall send a copy of its request for such a hearing to all delegate agencies which would be financially affected by the termination and to each delegate agency identified in the notice pursuant to subparagraph (e)(1) of this section. This material shall be sent to these delegate agencies at the same time the grantee's request is made to the Department. The grantee shall promptly send the Department a list of the delegate agencies to which it has sent such material and the date on which it was sent.

(4) If the responsible Department official pursuant to subparagraph (e)(1) of this section informs a grantee that a proposed termination action has been set for hearing, the grantee shall, within 5 days of its receipt of this notice, send a copy of it to all delegate agencies which would be financially affected by the termination action and to each delegate agency identified in the notice pursuant to subparagraph (e)(1) of this section. The grantee shall send the responsible Department official a list of all delegate agencies notified and the dates of notification.

(5) If the responsible Department official has initiated termination proceedings because of the activities of a delegate agency, that delegate agency may participate in the hearing as a matter of right. Any other delegate agency, person, agency or organization that wishes to participate in the hearing may, in accordance with paragraph (g) of this section, request permission to do so from the presiding officer of the hearing. Such participation shall not, without the consent of the Department and the grantee, alter the time limitations for the delivery of papers or other procedures set forth in this section.

(6) The results of the proceeding and any measure taken thereafter by the Department pursuant to this section shall be fully binding upon the grantee and all its delegate agencies whether or not they actually participated in the hearing.

(7) A grantee may waive a hearing and submit written information and argument for the record. Such material shall be submitted to the responsible Department official within a reasonable period of time to be fixed by him/her upon the request of the grantee. The failure of a grantee to request a hearing, or to appear at a hearing for which a date has been set, unless excused for good cause, shall be deemed a waiver of the right to a hearing and consent to the making of a decision on the basis of such information as is then in the possession of the Department.

(8) The responsible Department official may attempt, either personally or through a representative, to resolve the issues in dispute by informal means prior to the date of any applicable hearing.

(f) Time and Place of Termination Hearings.

The termination hearing shall be held in Sacramento, CA, at a time and place fixed by the responsible Department official, unless he/she determines that the convenience of the Department or of the parties or their representatives requires that another place be selected.

(g) Termination Hearing Procedures.

(1) The termination hearing, the decision on termination and any review thereof shall be conducted in accordance with paragraph (g), (h) and (i) of this section.

(2) The presiding officer at the hearing shall be the responsible Department official. The presiding officer shall conduct a full and fair hearing, avoid delay, maintain order, and make a sufficient record for a full and true disclosure of the facts and issues. To accomplish these ends, the presiding officer shall have all powers authorized by law, and he/she may make all procedural and evidentiary rulings necessary for the conduct of

the hearing. The hearing shall be open to the public unless the presiding officer, for good cause shown, determines otherwise.

(A) After the notice described in subparagraph (g)(6) of this section is filed with the presiding officer, he/she shall not consult any person or party on a fact in issue unless on notice and opportunity for all parties to participate. However, in performing his/her functions under this subparagraph the presiding officer may use the assistance and advise of an attorney designated by the General Counsel of the Department. The attorney designated to assist him/her however, must not have represented the Department or any other party or otherwise participated in a proceeding, recommendation, or decision in the particular matter.

(3) Both the Department and the grantee are entitled to present their cases by oral or documentary evidence, to submit rebuttal evidence and to conduct such examination and cross–examination as may be required for a full and true disclosure of the facts bearing on the issues. The issues shall be those stated in the notice required to be filed by subparagraph (g)(6) of this section, those stipulated in a pre–hearing conference or those agreed to by the parties.

(4) In addition to the Department, the grantee, and any delegate agencies which have a right to appear, the presiding officer, in his/her discretion, may permit the participation in the proceedings of such persons or organizations as he/she deems necessary for a proper determination of the issues involved. Such participation may be limited to those issues or activities which the presiding officer believes will meet the needs of the proceeding, and may be limited to the filing of written material.

(A) Any person or organization that wishes to participate in a proceeding may apply for permission to do so from the presiding officer. This application, which shall be made as soon as possible after the notice of proposed termination has been received by the grantee, shall state the applicant's interest in the proceeding, the evidence or arguments the applicant intends to contribute, and the necessity for the introduction of such evidence or arguments.

(B) The presiding officer shall permit or deny such participation and shall give notice of his/her decision to the applicant, the grantee, and the Department and, in the case of denial, a brief statement of the reasons therefor. The presiding officer may, however, subsequently permit such participation if, in his/her opinion, it is warranted by subsequent circumstances. If participation is granted, the presiding officer shall notify all parties of that fact and may, in appropriate cases, include in the notification a brief statement of the issues as to which participation is permitted.

(C) Permission to participate to any extent is not a recognition that the participant has any interest which may be adversely affected or that the participant may be aggrieved by any decision, but is allowed solely for the aid and information of the presiding officer.

(5) All papers and documents which are required to be filed shall be filed with the presiding officer. Prior to filing, copies shall be sent to the other parties.

(6) The responsible Department official shall send the grantee and any other party a notice which states the time, place, and nature of the hearing, and the legal authority and jurisdiction under which the hearing is to be held. The notice shall also identify with reasonable specificity the facts relied on in justifying termination and the Department requirements which it is contended the grantee has violated. The notice shall be filed and served not later than 10 days prior to the hearing and a copy therefor shall be filed with the presiding officer.

(7) The grantee and any other party which has a right or permission to participate in the hearing shall give written confirmation to the Department of its intention to appear at the hearing 3 days before it is scheduled to occur. Failure to do so may, at the discretion of the presiding officer, be deemed a waiver of the right to a hearing.

(8) All papers and documents filed or sent to a party shall be signed in ink by the appropriate party or his/her authorized representative. The date on which papers are filed shall be the day on which the papers or documents are deposited, postage prepaid in the U.S. mail, or are delivered in person. The effective date of the notice specifying the grounds which warrant termination shall be the date of its delivery or attempted delivery at the grantee's last known address as reflected in the records of the Department.

(9) Prior to the commencement of a hearing the presiding officer may, subject to the provisions of subparagraph (g)(2)(A) of this section, require the parties to meet with him/her or correspond with him/her concerning the settlement of any matter which will expedite a quick and fair conclusion of the hearing.

(10) Technical rules of evidence shall not apply to hearings conducted pursuant to this section but the presiding officer shall apply rules or principles designed to assure production of relevant evidence and to subject testimony to such examination and cross–examination as may be required for a full and true disclosure of the facts. The presiding officer may exclude irrelevant, immaterial, or unduly repetitious evidence. A transcript shall be made of the oral evidence and shall be made available to any participant upon payment of the prescribed costs. All documents and other evidence submitted shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced by either side on the issues.

(11) If the presiding officer determines that the interests of justice would be served, he/she may authorize the taking of depositions provided that all parties are afforded an opportunity to participate in the taking of the depositions. The party who requested the deposition shall arrange for a transcript to be made of the proceedings and shall upon request, and at his/her expense, furnish all other parties with copies of the transcript.

(12) Official notice may be taken of a public document, or part thereof, such as a statute, official report, decision, opinion or published scientific data issued by any agency of the Federal Government or a State or local government and such document or data may be entered on the record without further proof of authenticity. Official notice may also be taken of such matters as may be judicially noticed in the courts of the United States, State of California, or any other matter of established fact within the general knowledge of the Department. If the decision of the presiding officer rests on official notice of a material fact not appearing in evidence, a party shall on timely request be afforded an opportunity to show the contrary.

(13) After the hearing has concluded, but before the presiding officer makes his/her decision, he/she shall afford each participant a reasonable opportunity to submit proposed findings of fact and conclusions. After considering each proposed finding or conclusion the presiding officer shall state in his/her decision whether he/she has accepted or rejected them in accordance with the provisions of paragraph(h) and (i) of this section.

(h) Decision.

(1) Each decision of a presiding officer shall set forth his/her findings of fact, and conclusions, and shall state whether he/she has accepted or rejected each proposed finding of fact and conclusion committed by the parties, pursuant to subparagraph (g)(13) of this section. Findings of fact shall be based only upon evidence submitted to the presiding officer and matters of which official notice has been taken. The decision shall also specify the requirement or requirements with which it is found that the grantee has failed to comply.

(2) The decision of the presiding officer may provide for continued suspension or termination of the contract in whole or in part, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Community Services Block Grant Act, as amended.

(3) If the hearing is held by an independent hearing examiner rather than by the responsible Department official, he/she shall make an initial decision, and a copy of this initial decision shall be mailed to all parties. Any party may, within 20 days of the mailing of such initial decision or such longer period of time as the presiding officer specifies, file with the responsible Department official his/her exceptions to the initial decision and any supporting brief or statement. Upon the filing of such exceptions, the responsible Department official shall, within 20 days of the mailing

of the exceptions, review the initial decision and issue his/her own decision thereon, including the reasons therefor. The decision of the responsible Department official may increase, modify, approve, vacate, remit, or mitigate any sanction imposed in the initial decision or may remand the matter to the presiding officer for further hearing or consideration.

(4) Whenever a hearing is waived, a decision shall be made by the responsible Department official and a written copy of the final decision of the reasonable Department official shall be given to the grantee.

(5) The grantee may request the Director to review a final decision made by the responsible Department official which provides for termination. Such a request must be made in writing within 15 days after the grantee has been notified of the decision in question and must state in detail the reasons for seeking the review. In the event the grantee requests such a review, the Director or his/her designee shall consider the reasons stated by the grantee for seeking the review and shall approve, modify, vacate or mitigate any sanction imposed by the responsible Department official or remand the matter to the responsible Department official for further hearing or consideration. The decision of the responsible Department official will be given great weight by the Director or his/her designee during the review. During the course of his/her review, the Director or his/her designee may, but is not required to, hold a hearing or allow the filing of briefs and arguments. Pending the decision of the Director or his/her designee, the grant shall remain suspended under the terms and the conditions specified by the responsible Department official unless the responsible Department official or the Director or his/her designee determines otherwise. Every reasonable effort shall be made to complete the review by the Director or his/her designee within 30 days of receipt of the grantee's request by the Director. The Director or his/her designee may, however, extend this period of time if he/she determines that additional time is necessary for an adequate review.

(6) The responsible Department official or the presiding officer of a termination hearing may alter, eliminate or modify any of the provisions of this section with the consent of the grantee and, in the case of a termination hearing, with the consent of all delegate agencies that have a right to participate in the hearing pursuant the subparagraph (e)(5) of this section. Such consent must be in writing or be recorded in the hearing transcript.

(7) The procedures established by this section shall not preclude the Department from pursuing other remedies authorized by law.

(i) Right to Counsel; Travel Expenses.

(1) The Department and the grantee shall have the right to be represented by counsel or other authorized representatives in all proceedings under this section. Any grantee or delegate agency if authorized by resolution of their Board of Directors, may transfer sufficient funds from their current operating grants to pay for fees, travel and per diem expenses of such attorney. The fees for such attorneys shall be the reasonable and customary fees for an attorney practicing in the locality of the attorney. However, such fees shall not exceed $100 per day, exclusive of travel costs and per diem, without the prior written approval of the Department.

(2) The Board of Directors of the grantee or any delegate agency which has a right to participate in an informal meeting pursuant to subparagraph (e)(8) of this section will also be authorized to designate two persons in addition to an attorney whose travel and per diem expenses to attend the meeting or hearing may be paid from the organization's current operating grant. Such travel and per diem expenses shall conform to the policies set forth in Office of Management and Budget (OMB) Circular A–110, dated 7/30/76, and OMB Circular A–102, dated 9/12/77, and other applicable federal laws or regulations which may supercede these policies.

(j) Denial of Refunding.

(1) No grantee shall be denied refunding by the Department without the Department first complying with paragraphs (e), (f), (g), (h) and (i) of this section.

(2) In addition to the general requirements of subsection (a), the Department shall obtain authority to terminate the contract of community action agency grantees or migrant and seasonal farmworker organization grantees from the Secretary of the U.S. Department of Health and Human Services pursuant to Section 676 A of the Community Services Block Grant Act, (42 U.S.C. 9905A), prior to a denial of refunding.

(k) Disposition of Unexpended Funds.

Upon termination, the disposition of unexpended CSBG funds and of property purchased with program funds shall be in accordance with the provisions of Section 100740 of Article 3 of these regulations, entitled Grant Closeouts for Terminated Grantees. Termination shall not affect expenditures or legally binding commitments made prior to the grantees receipt of notice of the termination provided such expenditures were made in good faith and are otherwise allowable.

NOTE: Authority cited: Section 12781(d)(1) and (e), Government Code. Reference: Section 12781(d)(1), Government Code.

HISTORY

1. Change without regulatory effect amending subsections (b)(1)–(c), (d)(1)–(8), (e)(1)–(f), (g)(2)–(4), (g)(4)(B), (g)(6)–(8), (g)(12), (h)(3)–(7), (i)(1), (j)(1)–(2) and NOTE filed 12–20–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100790. High Incidence of Poverty.

NOTE: Authority cited: Section 12781(a), Government Code. Reference: Section 12758(b), Government Code.

HISTORY

1. Change without regulatory effect repealing section filed 12–20–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

§ 100795. Directory.

The Department shall annually publish and distribute a directory of all current grantees providing services under the Community Services Block Grant and the Low–Income Home Energy Assistance Program.

NOTE: Authority cited: Section 12781(d), Government Code. Reference: Section 12781(i), Government Code.

HISTORY

1. Change without regulatory effect repealing section filed 12–20–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).
2. Change without regulatory effect amending section and NOTE filed 12–20–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

Chapter 2. Low–Income Home Energy Assistance Program Regulations

§ 100800. Definitions.

For the purposes of applying the Low–Income Home Energy Assistance Program regulations contained in Chapter 2:

(a) "Amendment" means any change to the terms or conditions outlined in the contract.

(b) "Community Action Agency" or "CAA" means a public or private nonprofit agency which fulfills all of the requirements of Government Code Section 12750.

(c) "Contract" means a written agreement between the Department and a contractor for the acquisition of property or the provision of services to accomplish a public purpose under a grant award.

(d) "Contractor" means an agency that may be a public or private nonprofit entity, which enters into a contract with the Department.

(e) "DEO" or "Department" means the California State Department of Economic Opportunity created pursuant to Government Code Section 12085 and designated in Government Code Section 16367.5 to administer the Low–Income Home Energy Assistance Program.

(f) "Dwelling Unit" means a house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters.

(g) "ECIP" means Energy Crisis Intervention Program provided for pursuant to the Low–Income Home Energy Assistance Act of 1981, as amended.

(h) "Energy Crisis" means weather–related and supply shortage emergencies and other household energy–related emergencies.

(i) "Grant Award" means an award of financial assistance by the Department to a contractor.

(j) "Household" means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common.

(k) "LIHEAP" means the Federal Low–Income Home Energy Assistance Program Block Grant, provided for pursuant to the Low–Income Home Energy Assistance Act of 1981, as amended (42 USC 8620 et seq.).

(*l*) "Poverty Level" means the income poverty line as prescribed and revised annually by the United States Office of Management and Budget.

(m) "Subcontract" means an award of financial assistance made under a contract by a contractor to a subcontractor.

(n) "Subcontractor" means the legal entity to which a subcontract is awarded and which is accountable to the contractor for the use of the funds provided.

(o) "Weatherization" means the installation of energy conservation measures identified in the contract that are cost effective and improve energy efficiency.

NOTE: Authority cited: Section 16367.6(b), Government Code. Reference: Section 16367.6(b), Government Code.

HISTORY

1. New section filed 5–8–92; operative 6–8–92 (Register 92, No. 20).

§ 100805. Appeal Process.

(a) Any person who has applied for benefits and/or services provided under a grant award from a contractor or a subcontractor whose application has been denied or not acted upon within fifteen (15) working days or has not received satisfactory performance according to the agreed upon program requirements of the contract has the right to first appeal such action to the contractor and, if not satisfied, subsequently appeal to DEO. For purposes of this section, DEO shall consider that there has been a denial of assistance when the following exists and a client has been refused service:

(1) The benefits, services and/or funds are currently available; and

(2) The contractor has the authority to provide or disburse such benefits, services and/or funds; and

(3) The applicant meets or believes that he/she can prove that he/she meets program eligibility criteria; and

(4) The applicant meets the conditions of the approved priority service plan.

(b) A written appeals process shall be established by each contractor and shall be provided to all applicants who are denied assistance.

(1) Procedures for the review of partial or complete denial of assistance to any person or household shall include the following:

(A) Provisions for notifying the applicant in writing of the reasons for denial of assistance and advising the applicant that he/she may request a review of the denial and may submit additional information (in writing or orally) which the applicant believes would warrant a favorable determination.

(B) Provisions for reviewing the denial of an application for assistance in an expeditious manner if such is requested by the applicant. This shall include the specific assignment of responsibility to a senior level official or standing committee other than the person making the initial determination.

(C) Provisions for notifying the applicant of the contractor's final decision.

(D) The methods the contractor will employ to notify applicant of the existence of the appeals process.

(E) Provisions for ensuring that every effort will be made to provide persons who do not comprehend English with written materials and/or procedures in the appropriate language(s).

(F) Provisions for the retention of documents relating to specific denials of assistance and action(s) taken by the contractor. Such records must be maintained in the contractor's files for three years and shall be available for review by DEO officials upon request.

(G) Provisions to inform applicants that an appeal to DEO may be requested as part of the fair hearing process and provisions for providing a description to the applicant of the process and criteria for appeal to DEO as outlined in subsections (c) and (d) of this section.

(2) A written description of the aforementioned required procedures shall be maintained on file by the contractor and shall be available for public inspection.

(c) Should the applicant decide to appeal to DEO, the applicant shall submit a written appeal request to DEO within ten (10) working days from the date of the contractor's final decision. Upon request from DEO, the contractor shall provide all supportive documentation to DEO, postmarked within ten (10) working days of the request.

(d) DEO shall provide an opportunity for an administrative fair hearing if an applicant's concern is not resolved by appeal to the contractor. Within five (5) working days, upon receipt of a request for a fair hearing, DEO shall schedule a fair hearing to be conducted no later than fifteen (15) working days from receipt of a request for a fair hearing. The fair hearing shall be conducted in accordance with the following criteria:

(1) The hearing shall be held in a place reasonably convenient to the applicant and open to the public.

(2) The applicant shall receive notification of the hearing no less than five (5) working days before the scheduled hearing, to enable a proper preparation of the applicant's appeal.

(3) The applicant shall have an opportunity to review his/her claim file, which contains all the evidence to be presented, prior to the hearing.

(4) The hearing officer shall be an impartial adjudicator who has not participated in the decision being appealed.

(5) The applicant is guaranteed the right to:

(A) Have a representative at the hearing;

(B) Present evidence, including oral and/or written statements on his/her behalf;

(C) Present witnesses; and

(D) Cross–examine witnesses.

(6) The applicant shall be given the opportunity to elect to have the matter determined through use of a declaration in lieu of personal appearance.

(7) The hearing officer shall issue a final decision, in writing, within thirty (30) calendar days following the conclusion of the fair hearing.

NOTE: Authority cited: Section 16367.6(b), Government Code. Reference: Section 16367.55(b), Government Code.

HISTORY

1. New section filed 5–8–92; operative 6–8–92 (Register 92, No. 20).

§ 100810. Certification Requirements.

(a) Prior to receiving funds, a new contractor selected for funding under LIHEAP shall submit an accounting system report, signed by an independent certified public accountant or an independent State–licensed public accountant, or, in the case of a public agency, the financial officer responsible for providing required financial services to the contractor.

(b) The report shall certify that the new contractor has established an adequate accounting system with internal controls to safeguard assets, check the accuracy and reliability of all accounting data, promote operating efficiency, and assure compliance with any other fiscal requirements provided for by law.

NOTE: Authority cited: Section 16367.6(b), Government Code. Reference: Section 16367.6(b), Government Code.

HISTORY

1. New section filed 5–8–92; operative 6–8–92 (Register 92, No. 20).

§ 100815. Closeout Process.

(a) A contractor shall submit all grant closeout documents, including final financial, performance, and other reports required as a condition of the grant award, no later than ninety (90) calendar days following the date of completion of the contract. Upon written request by the contractor, the Department may extend the submittal date. Required reports may include but are not limited to:

(1) Final performance or activity report.

(2) Final expenditure report and request for reimbursement.

(3) State–owned property report. The contractor must submit an inventory of all state–owned property (as distinct from property acquired

with contract funds) for which it is accountable and request disposition instructions from the Department for property no longer needed.

(b) The Contractor must refund any unexpended funds to the Department.

(c) The Department will, within 90 days after receipt of reports in paragraph (a) of this section, make upward or downward adjustments to the allowable costs.

(d) The Department will make prompt payment to the contractor for allowable reimbursable costs which have not been reimbursed during the regular monthly billing process. This payment shall, however, be contingent upon receipt of the reports identified in paragraph (a) of this section.

(e) The Department will close out the contract when it determines that all applicable administrative actions and all required work have been completed.

(f) The close out of a contract does not affect:

(1) The Department's right to disallow costs and recover funds on the basis of a later audit or other review;

(2) The contractor's obligation to return any funds due as a result of later refunds, corrections, or other transactions;

(3) Records retention requirements;

(4) Property management requirements; and

(5) Audit requirements.

NOTE: Authority cited: Section 16367.6(b), Government Code. Reference: Section 16367.6(b), Government Code.

HISTORY

1. New section filed 5–8–92; operative 6–8–92 (Register 92, No. 20).

§ 100820. Designation of a New or Alternate Contractor.

(a) In the event a contractor files for bankruptcy or in some other manner ceases operations or has its grant terminated in accordance with Section 100875 of this Chapter, DEO shall select a new contractor based on 42 United States Code, Section 8624. In all instances where a new contractor is identified, DEO shall, prior to selecting said contractor, determine that the agency involved meets program and fiscal requirements.

(b) The following procedure shall be used for selecting a successor:

(1) DEO shall seek out a private nonprofit or public agency which is located and currently providing services to the general low–income population in the subject area. The agency shall be given the opportunity to fill the vacancy. Should there be more than one such entity interested in serving, special consideration shall be given in accordance with 42 U.S.C., Section 8624(b)(6) as follows:

(A) A local public or private nonprofit agency which was receiving Federal funds under any low–income energy assistance program or weatherization program under the Economic Opportunity Act of 1964 or any other provision of law on August 12, 1981.

(B) Any successor public or private nonprofit agency which is operated in substantially the same manner and for substantially the same purpose as the predecessor agency as described in subsection (b)(1)(A) above.

(2) When no such eligible entity or public or private nonprofit agency exists in a subject area, an entity which is located and providing services in an area contiguous to the subject area shall be offered the opportunity to serve using the same priority order as specified in subsection (b)(1) above.

(3) When no such eligible entity or public or private nonprofit agency exists contiguous to the subject area, an eligible entity located closest to or within reasonable proximity to the subject area shall be offered the opportunity to serve using the same priority order as specified in subsection (b)(1) above.

(c) In the event that more than one eligible entity exists and is willing to perform services after applying the procedures for selection of a successor agency in subsection (b), DEO shall utilize a competitive process to select a new contractor. When a competitive process is required, the Department will provide, at a minimum, the following to all interested parties. This information will be provided at least thirty (30) calendar days prior to the deadline for request for consideration under the competitive process.

(1) The background and purpose of the need for the competitive process.

(2) A description of the work to be performed and the service area in which it must be performed.

(3) The eligibility criteria for participating in the competitive process.

(4) A description of the required format for the response.

(5) The timetable for submittal, review and evaluation of the responses.

(6) The criteria which will be used by the Department to select the successor contractor.

NOTE: Authority cited: Section 16367.6(b), Government Code. Reference: Section 16367.6(b), Government Code.

HISTORY

1. New section filed 5–8–92; operative 6–8–92 (Register 92, No. 20).

§ 100825. Financial Statements and Audits.

(a) Single agency–wide audits shall be conducted in accordance with Office of Management and Budget (OMB) Circular A–128 or OMB Circular A–133, which are hereby incorporated by reference, as specified in (a)(1), (a)(2) and (a)(3) of this section along with other applicable Federal laws or regulations which may be adopted.

(1) OMB Circular A–128 shall be used when the contractor is a state or local government or an Indian tribe as defined in the Circular.

(2) OMB Circular A–133 shall be used when the contractor is a nonprofit agency or an institution of higher education as defined in the Circular.

(3) Should a question arise regarding an entity's status as either a public or private nonprofit, the Department shall request and accept a decision from the State Controller's Office as to which OMB Circular should be used.

(b) Audited financial statements shall be prepared in accordance with generally accepted accounting principles; generally accepted government auditing standards; those audit standards that apply to financial and compliance audits set forth in the Government Auditing Standards, 1988 Revision, issued by the General Accounting Office, which is hereby incorporated by reference; along with any other applicable State and Federal guidelines. Additionally, the audit shall show receipt and expenditure of DEO funds separately by program component and contract award.

(c) Entities governed by OMB Circular A–128 shall submit to the State Controller's Office, Division of Audits, two (2) copies of the required audit report within one (1) year of the expiration of the contractor's fiscal year.

(d) Entities governed by OMB Circular A–133 shall submit to DEO two (2) copies of the required audit report within ninety (90) calendar days of the expiration of the contractor's fiscal year. Under extenuating circumstances and upon written request by the contractor, DEO may grant an extension of time for submittal of the audit report.

(e) Where services or funds under this Chapter are provided to, for, or by a wholly–owned or –controlled subsidiary of a contractor, the contractor shall provide assurances that an audit will be performed of the subsidiary organization in accordance with this Chapter. The required audit report shall be made available to DEO upon request.

NOTE: Authority cited: Section 16367.6(b), Government Code. Reference: Section 16367.6(b), Government Code.

HISTORY

1. New section filed 5–8–92; operative 6–8–92 (Register 92, No. 20).

§ 100830. Funding Formula.

(a) Weatherization Services. The State shall designate service areas and provide funds to contractors for weatherization services based on the following factors:

(1) A service area shall contain no less than fifty thousand (50,000) people as established by the latest available United States Census, but in no case shall a currently established service area be reduced in size nor an agency presently funded under this Chapter which does not meet the criteria of this subsection be declared ineligible.

(2) A minimum funding level for each service area shall be no less than $65,000 except in the event of a federal grant reduction which exceeds twenty (20) percent of the prior year federal allocation. Should a federal grant reduction exceed twenty (20) percent of the prior year federal allocation, the minimum funding level shall be reduced.

(3) Funds may be targeted and made available to provide weatherization services to special population groups as needs are identified.

(4) The remaining funds shall be distributed by service area utilizing a formula which includes, at a minimum, the following:

(A) Low-income population;

(B) Energy costs; and

(C) Heating and cooling degree days.

(b) ECIP Services. The State shall designate service areas and provide funds to contractors for ECIP services based on the following factors:

(1) A service area shall contain no less than fifty thousand (50,000) people as established by the latest available United States Census, but in no case shall a currently established service area be reduced in size nor an agency presently funded under this Chapter which does not meet the criteria of this subsection be declared ineligible.

(2) A minimum funding level for each service area shall be no less than $85,000 except in the event of a federal grant reduction which exceeds twenty (20) percent of the prior year federal allocation. Should a federal grant reduction exceed twenty (20) percent of the prior year federal allocation, the minimum funding level shall be reduced.

(3) The remaining funds shall be distributed by service area utilizing a formula which includes, at a minimum, the following:

(A) Low-income population;

(B) Energy costs; and

(C) Heating and cooling degree days.

NOTE: Authority cited: Section 16367.6(b), Government Code. Reference: Sections 16367.6(b) and 16367.5(f), Government Code.

HISTORY

1. New section filed 5-8-92; operative 6-8-92 (Register 92, No. 20).

§ 100835. Contract Development Process.

(a) Any contract that is being considered for a new program year shall be subject to review and comment.

(b) A notice of proposed changes to the provisions of the contract language shall be provided to the DEO Advisory Commission and all contractors for review and comment.

(c) Interested parties shall have no less than thirty (30) calendar days from the notice of proposed change to present written comments to the Department or oral comments at a scheduled DEO Advisory Commission meeting.

(d) The Department shall review and consider all written and public comments when finalizing the actual contract language.

(e) Any amendment other than those identified below shall be subject to the same processes identified in (b) and (c) of this section. The following types of amendments, or combination of amendments, shall not be subject to review and comment:

(1) Extension of term only.

(2) Funding increase.

(3) Amendments required as a result of a State or Federal law or regulation.

NOTE: Authority cited: Section 16367.6(b), Government Code. Reference: Section 16367.6(b), Government Code.

HISTORY

1. New section filed 5-8-92; operative 6-8-92 (Register 92, No. 20).

§ 100840. Payment Process.

(a) DEO shall issue an advance payment, if requested in writing, to a contractor in an amount not to exceed twenty-five (25) percent of the contractor's total award for each component contained in the contract.

(b) In the event a contract award is amended to increase the total dollar amount, a subsequent advance payment not to exceed twenty-five (25) percent of the increased amount may be authorized by DEO, if a contractor requests an advance payment in writing. The need for an additional advance payment shall be based upon an analysis of contractor's documented cash flow requirements as recorded on monthly reports.

(c) A contractor shall submit a monthly invoice to DEO based on a fixed fee or an actual cost/earned reimbursement basis, as specified in the contract, for LIHEAP weatherization services performed.

(1) Payment under a fixed fee contract shall be equivalent to the value of allowable activities performed at the rate stated in the contract. Any excess income generated as a result of actual costs being less than the fixed rate shall be used by the contractor for any valid low-income energy assistance/weatherization activity, in accordance with LIHEAP statutory and regulatory limits on expenditures. The allowable period for expenditure of the excess income shall be the same as that for expenditure of program income.

(2) Payment under an actual cost/earned reimbursement contract shall be equivalent to contractor's actual allowable expenditures provided that, no later than the termination date of the contract, this amount does not exceed the value of allowable activities performed as stated in the contract.

(d) A contractor shall submit a monthly invoice to DEO prepared on an actual cash expenditure basis for ECIP services performed.

(e) Payments to a contractor shall be processed through the State Controller's Office and shall be contingent upon receipt by DEO of all monthly reports required by the contract.

NOTE: Authority cited: Section 16367.6(b), Government Code. Reference: Sections 11019, 16367.6(b) and 16367.7, Government Code.

HISTORY

1. New section filed 5-8-92; operative 6-8-92 (Register 92, No. 20).

§ 100845. Political Activities.

(a) A contractor shall refrain from all political activities if the activities involve the use of any funds which are the subject of this Chapter or any other funds, programs, projects, or activities which originate from this Chapter.

(b) A contractor shall be prohibited from any activity which is designed to provide voters or prospective voters with transportation to the polls or to provide similar assistance in connection with an election if such activities involve the use of any funds which are subject to this Chapter.

(c) A contractor shall refrain from all lobbying activities if such activities involve the use of any funds which are the subject of this Chapter or any other funds, programs, projects, or activities which originate from this Chapter.

NOTE: Authority cited: Section 16367.6(b), Government Code. Reference: Section 16367.6(b), Government Code.

HISTORY

1. New section filed 5-8-92; operative 6-8-92 (Register 92, No. 20).

§ 100850. Procurement Standards and Property Management.

(a) A contractor shall comply with the procurement and property management standards set forth in the Common Rule, sections .30 through .37, Changes, Property, and Subawards, as published in Volume 53, Number 48, Federal Register, March 11, 1988, which is hereby incorporated by reference and other applicable Federal laws or regulations which may augment or supersede these standards.

(b) LIHEAP funds shall not be used for the purchase or improvement of land, construction, or permanent improvement of any building or other facility other than weatherization or energy- related minor home repairs for low-income households.

NOTE: Authority cited: Section 16367.6(b), Government Code. Reference: Section 16367.6(b), Government Code.

HISTORY

1. New section filed 5-8-92; operative 6-8-92 (Register 92, No. 20).

§ 100855. Program and Interest Income.

(a) All interest earned on deposited LIHEAP funds shall be treated as program income in accordance with the Intergovernmental Cooperation Act (31 U.S.C. 6501, et seq.).

(b) A contractor shall comply with the requirements and standards set forth in the Common Rule, Section .25, Program Income, as published in Volume 53, Number 48, Federal Register, March 11, 1988, which is hereby incorporated by reference and other applicable Federal laws or regulations which may be adopted.

(c) Program income is defined as gross income received by a contractor directly generated or earned as a result of grant activities during the term of the contract. If costs are incurred in generating program income, these costs may be deducted from the gross program income to identify reportable net program income.

(d) Program income shall be used in one of the following ways:

(1) Added to grant funds awarded by DEO to further program objectives;

(2) Used to finance the non–Federal share of cost sharing or matching requirements of other Federal programs, when approved by DEO; or

(3) Deducted from the total project costs in determining the total allowable expenditures.

(e) Program income earned during a grant period may be retained and used during the program year and/or subsequent program years for grant approved expenditures for energy, subject to the following conditions:

(1) A contractor shall maintain records which clearly identify the receipt and disposition of all grant–related income in the same manner as required for other DEO grant funds.

(2) A contractor shall identify in the grant closeout report all program income remaining over the expenditure of such income during the program year.

NOTE: Authority cited: Section 16367.6(b), Government Code. Reference: Section 16367.6(b), Government Code.

HISTORY

1. New section filed 5–8–92; operative 6–8–92 (Register 92, No. 20).

§ 100860. Public Access to Records.

Any person who wishes to inspect or copy records regularly maintained by a contractor may do so upon written request. Information and records shall be made available to the requestor in accordance with the Public Records Act (Government Code Section 6250, et seq.) except for information and records which are exempt from the requirements of disclosure pursuant to the Information Practices Act of 1977 (Civil Code, Section 1798, et seq.).

NOTE: Authority cited: Section 16367.6(b), Government Code. Reference: Section 16367.6(b), Government Code.

HISTORY

1. New section filed 5–8–92; operative 6–8–92 (Register 92, No. 20).

§ 100865. Recapture and Redistribution of Unexpended Funds.

(a) Contract time extensions shall be approved when DEO determines that extenuating circumstances occurred beyond the control of the contractor. A contractor shall request the time extension in writing and provide justification for the request.

(b) In the event there are unexpended funds after determinations have been made regarding extensions, DEO shall offer recaptured funds to private nonprofit or public entities which are currently providing services and have met the goals and objectives as established in the existing contract. When distributing these funds, the Department shall give special consideration to the needs of the low–income population.

NOTE: Authority cited: Section 16367.6(b), Government Code. Reference: Section 16367.6(b), Government Code.

HISTORY

1. New section filed 5–8–92; operative 6–8–92 (Register 92, No. 20).

§ 100870. Record Keeping.

(a) A contractor shall comply with the record keeping standards set forth in the Common Rule, section .42, Retention and access requirements for records, as published in Volume 53, Number 48, Federal Register, March 11, 1988, which is hereby incorporated by reference, and other applicable Federal laws or regulations which may augment or supersede these standards.

(b) A contractor shall maintain all records required under LIHEAP for a minimum period of three (3) years following the submission of the final expenditure report. However, all records shall be maintained until resolution of all audit findings is completed.

(c) A contractor shall make all books, documents, papers and records relative to LIHEAP available to the State or any of its duly–authorized representatives, for examination or reproduction, upon a request thereof. The State shall pay contractor actual costs for any reproduction requested.

(d) Records shall be maintained in a confidential manner to assure compliance with the Information Practices Act of 1977 (Civil Code, Section 1798, et seq.).

NOTE: Authority cited: Section 16367.6(b), Government Code. Reference: Section 16367.6(b), Government Code.

HISTORY

1. New section filed 5–8–92; operative 6–8–92 (Register 92, No. 20).

§ 100875. Suspension and Termination.

(a) High Risk.

The Department may designate a contractor as a high risk agency and impose special conditions/restrictions on the agency's contract(s) if it is determined that one or more of the following conditions exists:

(1) The contractor has a history of unsatisfactory performance (noncompliance with contractual terms);

(2) The contractor is not financially stable;

(3) The contractor's management system does not meet the management standards set forth in regulatory standards for the administration of federally funded grants;

(4) The contractor has not conformed with terms and/or conditions of previous award(s); or

(5) The contractor is otherwise not responsible.

(b) Should a high risk designation be warranted because the conditions identified in subsection (a) are found to exist, the Department shall notify the contractor in writing of the following and grant the contractor thirty (30) days to implement corrective action or provide evidence which rebuts the designation.

(1) The rationale for the high risk designation;

(2) The nature of the special contract condition(s) and/or restriction(s) being imposed;

(3) The reason(s) for imposing the special condition(s) and/or restriction(s);

(4) The corrective actions which must be taken and the time allowed for completing the corrective actions before the special conditions are removed;

(5) The procedures for requesting reconsideration of the condition(s)/restriction(s) imposed.

(c) If the contractor fails to provide evidence warranting reconsideration of the designation within the time specified in subsection (b), the agency will be provided official notice of the high risk designation. Notification will also be distributed to all other known funding sources of the contractor.

(d) Should the Department determine that contract(s) will be awarded or continued once an agency has been designated high risk, special conditions and/or restrictions which correspond to the high risk condition shall be imposed. Special conditions or restrictions may include but are not limited to the following:

(1) Require payment on a reimbursement basis;

(2) Limit the term of the contract within the funding period;

(3) Require additional financial reports;

(4) Require frequent on–site review; or

(5) Require the contractor to obtain technical or management assistance.

If the Department is notified by a separate funding source that it has designated a contractor high risk, the Department may impose special conditions and/or restrictions on the contractor.

(e) The removal of the high risk designation can only be accomplished by the contractor providing proof of corrective action deemed satisfactory by the Department. DEO will notify other funding sources of the high risk designation removal.

(f) Notice of Intent to Suspend. Should a contractor fail to address and remedy the conditions which led to its high risk designation within the time frame specified pursuant to subsection (b)(4), DEO shall notify the contractor in writing that it intends to suspend a contract(s) in whole or in part, unless good cause is shown why the contract(s) should not be suspended. The notice shall specify the grounds for the proposed suspension, the proposed effective date of the suspension, the time frame within which the contractor must respond to the notice and the action necessary to adequately correct the deficiency which led to the initiation of the suspension process.

(g) Informal Meeting on Suspension. The contractor shall have a right to submit documentation in opposition to the intended suspension and to request an informal meeting to show cause why such suspension should not occur. The period of time within which the contractor may submit such documentation or request the informal meeting shall be specified in the notice of intent to suspend and shall be no less than five (5) working days after the notice has been sent. Should the contractor request a meeting, the responsible Department official shall set a time and place for the meeting, which shall not be less than five (5) working days following the receipt of the contractor's request. In lieu of the right of the contractor to request an informal meeting, the Department may on its own initiative establish a time and place for such a meeting. In no event, however, shall such a meeting be scheduled less than seven (7) working days after the notice of intent to suspend has been sent to the contractor. The Department official may extend the periods of time or dates previously referred to and shall notify the contractor, in writing, of any such extension.

(h) Department Review of Suspension Documents. DEO shall consider any material presented during the course of the informal meeting provided for in subsection (g) of this section, as well as any showing that the contractor has adequately corrected the deficiency which led to the initiation of suspension proceedings. If after considering the material presented the Department concludes that the contractor has failed to show cause why the contract should not be suspended, the Department may suspend the contract in whole or in part and under such terms and conditions as the Department may specify.

(i) Suspension. Should the Department determine suspension is warranted under subsection (h), notice of suspension shall be promptly transmitted to the contractor and shall become effective upon delivery. Suspension shall not exceed a ninety (90) calendar day period unless, during such period of time, termination proceedings are initiated or the Department and the contractor agree to a continuation of the suspension for an additional period of time.

(1) During the period of suspension, no new expenditures shall be made by the contractor, and no new obligations shall be incurred in connection with the suspended program except as specifically authorized in writing by DEO. Expenditures to fulfill legally enforceable commitments made prior to the notice of suspension, in good faith and in accordance with the contractor's approved work program and not in anticipation of suspension or termination, shall not be considered new expenditures. However, funds shall not be recognized as committed solely because the contractor has obligated them by contract or otherwise to another party.

(2) The Department may modify the terms, conditions and nature of the suspension or rescind the suspension action at any time upon the Department's initiative or upon a satisfactory showing that the contractor has adequately corrected the deficiency which led to the suspension and that repetition is not threatened. A suspension partly or fully rescinded may, at the discretion of DEO, be reimposed with or without further proceedings. However, the total time of suspension may not exceed ninety (90) calendar days unless termination proceedings are initiated in accordance with DEO policies and procedures governing the termination of contracts or unless DEO and the contractor agree to a continuation of the suspension for an additional period of time. If termination proceedings are initiated, the suspension shall remain in full force and effect until such proceedings have been fully concluded.

(j) Termination. Should a contractor substantially breach the terms and conditions of its contract so as to warrant termination, whether or not the contract has been suspended, the Department shall state that there appear to be grounds which warrant termination and shall set forth the specific reasons therefore.

(1) Notice of Termination. A notice shall advise the contractor that the matter has been set down for hearing at a stated time and place, the nature of the hearing, and the legal authority under which the hearing is to be held. The notice shall also specify the facts upon which the proposed termination has been based and the requirements which the contractor has allegedly violated.

(2) Termination Hearing. Hearings shall be scheduled for the earliest practicable date, but not less than thirty (30) days after issuance of the notice of termination. Any such hearing shall afford the contractor a full and fair opportunity to demonstrate that it is in compliance with all applicable laws, regulations, and other requirements. The hearing shall be open to the public unless the presiding officer, for good cause shown, determines otherwise. Both the Department and the contractor are entitled to present their case by oral or documentary evidence, to submit rebuttal evidence and to conduct such examination and cross-examination as may be required for a full and true disclosure of the facts bearing on the issues.

Any person or organization who wishes to participate in the hearing shall apply for permission to do so from the Department. The Department shall permit or deny such participation and shall give written notice of the decision to the applicant and the contractor, and, in the case of denial, a brief statement of the reasons therefore.

(3) The decision of the Department shall be made no later than ten (10) days following the hearing. The decision shall be in writing and shall set forth the findings of fact and conclusions. It shall state whether the Department has accepted or rejected each finding of fact or conclusions.

(4) In the event of termination, DEO may proceed to provide services in the area served by the terminated contractor in the manner prescribed in Section 100820 of this Chapter.

(5) DEO shall retain lien rights on all funds advanced and/or all property provided.

(6) Upon termination of any agreement, DEO, unless expressly granted in writing, shall not pay contractor for any obligations incurred after the effective date of such termination.

NOTE: Authority cited: Section 16367.6(b), Government Code. Reference: Section 16367.6(b), Government Code.

HISTORY

1. New section filed 5-8-92; operative 6-8-92 (Register 92, No. 20).

Chapter 3. Applicant Verification Regulations

§ 100900. Verification for Public Benefits for Noncitizens Under the Low-Income Home Energy Assistance Program and the Department of Energy Low-Income Weatherization Assistance Program.

(a) All verification requirements contained herein shall be applied without regard to the race, creed, color, gender, religion, or national origin of the individual applying for the public benefit.

(b) The provisions of this section shall apply only to the following federally-funded grant programs administered by the Department:

(1) The following components of the Low-Income Home Energy Assistance Program (LIHEAP): Specifically (a) the Home Energy Assistance Program (HEAP) component; (b) the Energy Crisis Intervention Program (ECIP) component; and (c) Weatherizing single-family dwellings (not multi-family dwellings) within the Weatherization component.

(2) Weatherizing single-family dwellings (not multi-family dwellings) under the Department of Energy Low-Income Weatherization Assistance Program (DOE-LIWAP).

NOTE: Authority cited: Sections 12781(d) and 16367.5, Government Code. Reference: Sections 1611, 1611(b), 1641, 1641(b) and (c), and 1642, 8 U.S.C.; Sections 12781(d) and 16367.5, Government Code; and 62 FR 61344 and 61370.

HISTORY

1. New section filed 2-24-98 as an emergency; operative 2-24-98 (Register 98, No. 9). A Certificate of Compliance must be transmitted to OAL by 6-24-98 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2-24-98 order, including amendment of subsections (e)(1), (e)(3), (g) and (j) and amendment of NOTE, transmitted to OAL 6-24-98 and filed 8-5-98 (Register 98, No. 32).
3. Change without regulatory effect relocating and amending chapter 3 heading from prior placement preceding section 10115 to new placement preceding section 100900 filed 1-28-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 5).
4. Amendment of chapter heading, section heading and subsection (a), repealer of subsections (b)-(j), new subsections (b)-(b)(2), and amendment of NOTE filed 6-14-2001 as an emergency; operative 6-14-2001 (Register 2001, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-12-2001 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 6-14-2001 order transmitted to OAL 9-20-2001 and filed 11-2-2001 (Register 2001, No. 44).

§ 100901. Definitions.

The following definitions shall apply to this subchapter:

(a) "Applicant" means any person applying to the Department and/or its contracting agencies for a public benefit.

(b) "Battered or subjected to extreme cruelty" means, but is not limited to, being the victim of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered as acts of violence. Other abusive actions may also be acts of violence under this rule. Acts or threatened acts that, in and of themselves, may not initially appear violent may be part of an overall pattern of violence.

(c) "Department" means the California Department of Community Services and Development.

(d) "INA" means the Immigration and Nationality Act.

(e) "INS" means the Immigration and Naturalization Service.

(f) "Noncitizen" means any person not a citizen or national of the United States.

(g) "Nonprofit charitable organization" for purposes of this subchapter, shall mean an organization which shall include, but not necessarily be limited to, organizations which have received a tax exemption from the Internal Revenue Service pursuant to Internal Revenue Code section 501(c)(3). An organization is "nonprofit" if it is organized and operated for purposes other than making gains or profits for the organization, its members or its shareholders, and is precluded from distributing any gains or profits to its members or shareholders. An organization is "charitable" if it is organized and operated for charitable purposes. The term "charitable" includes organizations dedicated to relief of the poor and distressed or the underprivileged, as well as religiously affiliated organizations and educational organizations.

(h) "PRWORA" means the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, (P. L. 104-193).

(i) "Qualified alien" means an alien who, at the time he or she applies for, receives, or attempts to receive a public benefit, is, under 8 U.S.C. § 1641(b) and (c), any of the following:

(1) An alien lawfully admitted for permanent residence under the INA (8 U.S.C. § 1101 et seq.).

(2) An alien who is granted asylum under Section 208 of the INA (8 U.S.C. § 1158).

(3) A refugee who is admitted to the United States under Section 207 of the INA (8 U.S.C. § 1157).

(4) An alien who is paroled into the United States under Section 212(d)(5) of the INA (8 U.S.C. § 1182(d)(5)) for a period of at least one year.

(5) An alien whose deportation is being withheld under Section 243 (h) of the INA (8 U.S.C. § 1253(h)) (as in effect immediately before the effective date of Section 307 of division C of Public Law (P.L.) 104-208) or Section 241(b)(3) of such Act (8 U.S.C. § 1251(b)(3)) (as amended by Section 305(a) of division C of P.L. 104-208).

(6) An alien who is granted conditional entry pursuant to Section 203(a)(7) of the INA as in effect prior to April 1, 1980 (8 U.S.C. § 1153(a)(7).

(7) An alien who is a Cuban and Haitian entrant (as defined in Section 501 (e) of the Refugee Education Assistance Act of 1980).

(8) An alien under 8 U.S.C. § 1641(c)(1) who:

(A) has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent of the alien consented to, or acquiesced in, such battery or cruelty, and has the need for the benefits to be provided

(B) and has a petition that has been approved or has a petition pending which sets forth a prima facie case for:

(i) status as a spouse or child of a United States citizen pursuant to clause (ii), (iii), or (iv) of Section 204(a)(1)(A) of the INA (8 U.S.C. § 1154(a)(1)(A) (ii), (iii), or (iv)),

(ii) status as a spouse or child of a lawful permanent resident pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA (8 U.S.C. § 1154(a)(1)(B)(ii) or (iii)),

(iii) suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act (as in effect before the title III-A effective date in section 309 of the Illegal Immigration and Immigrant Responsibility Act of 1996,

(iv) status as a spouse or child of a United States citizen pursuant to clause (i) of Section 204(a)(1)(A) of the INA (8 U.S.C. § 1154(a)(1)(A)(i)) or status as a spouse or child or unmarried son or daughter of a lawful permanent resident pursuant to clause (i) of Section 204(a)(1)(B) of the INA (8 U.S.C. § 1154(a)(1)(B)(i)), or

(v) cancellation of removal under the INA (8 U.S.C. § 1229b(b)(2)).

(9) An alien under 8 U.S.C. § 1641(c)(2) whose child:

(A) has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty, but only if (in the opinion of the Department of Community Services and Development and/or its contractors) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(B) who meets the requirements of subparagraph (B) of paragraph (8); or

(10) An alien child under 8 U.S.C. § 1641(c)(3) who:

(A) resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent's spouse or by a member of the spouse's family residing in the same household as the parent and the spouse consented or acquiesced to such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided, and:

(B) who meets the requirement of subparagraph (B) of paragraph (8)

(11) and for the period for which benefits are sought, the individual responsible for the battery or cruelty to the individuals identified in Sections (8), (9) and (10) does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

(12) and there is a substantial connection between such battery or cruelty to the individuals identified in Sections (8), (9) and (10) and the

need for the benefits to be provided in the opinion of the Department of Community Services and Development and/or its contractors.

NOTE: Authorities cited: Sections 12781(d) and 16367.5, Government Code. Reference: Sections 1101 et seq., 1551 et seq., 1601 et seq., 1641(b), (c) and (c)(2), 8 U.S.C.; 62 FR 61344 and 61369; and 63 FR 41662 and 41677.

HISTORY

1. New section filed 6–14–2001 as an emergency; operative 6–14–2001 (Register 2001, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–12–2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–14–2001 order transmitted to OAL 9–20–2001 and filed 11–2–2001 (Register 2001, No. 44).

§ 100902. Eligibility for Federal Public Benefits.

To be eligible to receive federal public benefits under the Department's programs:

(a) The applicant must declare himself or herself to be a citizen or national of the United States or a qualified alien under 8 U.S.C. § 1641(b) or (c).

(b) The applicant shall declare that status through use of the "Statement of Citizenship or Noncitizen Status for Public Benefits," CSD Form 600, Revised 6/01.

(c) The applicant must present documents of a type set forth in List A of CSD Form 600, Revised 6/01, in the case of an applicant who is a citizen or national or List B of CSD Form 600 in the case of an applicant who is a noncitizen, that serves as reasonable evidence of the applicant's declared status at the time of application. A fee receipt from the INS for replacement of a lost, stolen, or unreadable INS document is reasonable evidence of the noncitizen applicant's declared status.

(d) The applicant must complete and sign CSD Form 600, Revised 6/01.

(e) Where the documents presented appear to be questionable or do not appear to relate to the individual presenting them, the government entity that originally issued the documents shall be contacted for verification. With regard to naturalized citizens and derivative citizens presenting certificates of citizenship and noncitizens, the INS is the appropriate government entity to contact for verification. Contractors of the Department of Community Services and Development shall request verification from the INS by filing INS Form G–845 with copies of the pertinent documents provided by the applicant with the local INS office. If the applicant has lost his or her original documents or presents expired documents or is unable to present any documentation evidencing his or her immigration status, the applicant shall be referred to the local INS office to obtain documentation.

(1) Inquiries regarding battered noncitizen petitions should be directed to the Vermont Service Center at (802) 527–3160.

(2) Inquiries regarding applications for suspension of deportation and cancellation of removal statuses should be directed to the Executive Office for Immigration Review (EOIR).

(f) Documents that should be referred to the INS for verification using the INS Form G–845 shall include the following:

(1) The document presented indicates immigration status but does not include an alien registration or alien admission number.

(2) The document is suspected to be counterfeit or to have been altered.

(3) The document includes an alien registration number in the A60 000 000 (not yet issued) or A80 000 000 (illegal border crossing) series.

(4) The document is one of the following: an INS Form I–181b notification letter issued in connection with an INS Form I–181 Memorandum of Creation of Record of Permanent Residence, an Arrival–Departure Record (INS Form I–94) or a foreign passport stamped "PROCESSED FOR I–551, TEMPORARY EVIDENCE OF LAWFUL PERMANENT RESIDENCE" that INS issued more than one year before the date of application for federal public benefits.

(g) If the INS advises that the applicant has acquired citizenship status or has an immigration status which makes him or her a qualified alien, the INS verification shall be accepted. If the INS advises that it cannot verify that the applicant has acquired citizenship status or an immigration status that makes him or her a qualified alien, benefits shall be denied and the applicant notified pursuant to section 100905 of his or her rights to appeal the denial of benefits under the Low–Income Home Energy Assistance Program, and/or the Department of Energy Low–Income Weatherization Assistance Program.

(h) An applicant who contends the INS made an erroneous determination of immigration status must be advised to contact the INS, and provided assistance as needed in how to contact the INS to contest the INS determination.

(i) Provided that the noncitizen has completed and signed CSD Form 600, Revised 6/01, under penalty of perjury, eligibility for services under the Low–Income Home Energy Assistance Program, or the Department of Energy Low–Income Weatherization Assistance Program shall not be delayed, denied, reduced, or terminated while the status of the applicant is verified, or while the applicant pursues an appeal pursuant to (g) or (h) of this section.

NOTE: Authorities cited: Sections 12781(d) and 16367.5, Government Code. Reference: 62 FR 61344 and 61366; and 63 FR 41662, 41666, 41678 and 41679.

HISTORY

1. New section filed 6–14–2001 as an emergency; operative 6–14–2001 (Register 2001, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–12–2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–14–2001 order transmitted to OAL 9–20–2001 and filed 11–2–2001 (Register 2001, No. 44).

§ 100903. Self–Certification.

Self–certification is allowed only under the LIHEAP Energy Crisis Intervention Program (ECIP) component pursuant to section 2604(c)(1) and (2) of the LIHEAP, P.L. 97–35, as amended, which requires that assistance in the form of a payment guarantee be provided not later than forty–eight (48) hours after a household applies for ECIP, and not later than eighteen (18) hours if the household is in a life–threatening situation.

(a) An applicant may self–certify that he/she is a U.S. citizen or non–citizen national or a qualified alien by signing, under penalty of perjury, CSD Form 600, if he/she is not able to provide documentation.

(b) Applicant must provide proof of citizenship or noncitizen status to provider within thirty (30) days.

(c) If documentation is not received within 30 days, the applicant must be notified in writing that he/she is ineligible to receive future benefits until the proof is received.

NOTE: Authorities cited: Sections 12781(d) and 16367.5, Government Code. Reference: P.L. 97–35 Section 2604(c)(1) and (2); Section 1642, 8 U.S.C.; and 63 FR 41662, 41663 Section 104.2 and 41666 Section 104.6.

HISTORY

1. New section filed 6–14–2001 as an emergency; operative 6–14–2001 (Register 2001, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–12–2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–14–2001 order transmitted to OAL 9–20–2001 and filed 11–2–2001 (Register 2001, No. 44).

§ 100904. Exemptions.

(a) Pursuant to 8 U.S.C. § 1642(d), a nonprofit charitable organization that provides federal, state, or local public benefits shall not be required to determine, verify, or otherwise require proof of eligibility of any applicant or beneficiary with respect to his or her immigration status.

(b) Nothing in this section shall be construed to withdraw eligibility for the services under the applicable programs subject to these regulations under 8 U.S.C. § 1611(b) for short–term, non–cash, in–kind emergency disaster relief.

NOTE: Authorities cited: Sections 12781(d) and 16367.5, Government Code. Reference: Sections 1611(b) and 1642(d), 8 U.S.C.; and 63 FR 41662 and 41664.

HISTORY

1. New section filed 6–14–2001 as an emergency; operative 6–14–2001 (Register 2001, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–12–2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–14–2001 order transmitted to OAL 9–20–2001 and filed 11–2–2001 (Register 2001, No. 44).

§ 100904.5. Fair Hearing.

Any applicant who is determined to be ineligible or who was made eligible for services under the Low–Income Home Energy Assistance Program, and/or the Department of Energy Low–Income Weatherization Assistance Program whose services are denied, terminated, suspended, or reduced is entitled to a hearing, pursuant to section 100805 of the Low–Income Home Energy Assistance Program regulations, Chapter 2, Division 11, Title 22; or the Department of Energy Low–Income Weatherization Assistance Program contract provisions.

NOTE: Authorities cited: Sections 12781(d) and 16367.5, Government Code. Reference: Section 100805, Title 22, Div. 11; and 63 FR 41678.

HISTORY

1. New section filed 6–14–2001 as an emergency; operative 6–14–2001 (Register 2001, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–12–2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–14–2001 order transmitted to OAL 9–20–2001 and filed 11–2–2001 (Register 2001, No. 44).

Chapter 4. Naturalization Services Regulations

§ 100905. Matching Funds Requirement.

In order to be eligible for funding under the Naturalization Services Program, citizenship assistance providers shall provide a 25 percent match, either through public or private funds or in–kind contributions, unless the Director of the Department of Community Services and Development waives the matching requirement based on the financial ability of the provider to meet the matching requirement. All contributions, including cash and third party in–kind, shall be accepted as part of the citizenship assistance provider's matching funds requirement when such contributions meet all of the following criteria:

(a) They are verifiable from the provider's records.

(b) They are not included as contributions for any other project or program.

(c) They are necessary and reasonable for proper and efficient accomplishment of project or program objectives.

(d) They are allowable under the applicable cost principles.

(e) They are authorized or not prohibited under federal, state, or local government laws or regulations.

NOTE: Authority cited: Item 4700–101–0001 2(h), Chapter 324, Statutes of 1998. Reference: Item 4700–101–0001 2(d)(1), Chapter 324, Statutes of 1998.

HISTORY

1. New chapter 4 (sections 100905–100915) and section filed 1–25–99 as an emergency; operative 1–25–99 (Register 99, No. 5). A Certificate of Compliance must be transmitted to OAL by 5–25–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–25–99 order transmitted to OAL 5–20–99 and filed 7–1–99 (Register 99, No. 27).

§ 100910. Criteria for Waiver of Matching Funds Requirement.

The conditions under which the Director of the Department of Community Services and Development may waive the requirement for matching funds are:

(a) A private, not–for–profit organization has submitted to CSD a certification from an independent certified public accountant or an independent State–licensed public accountant that it has insufficient or no other allowable funds or in–kind contributions; or

(b) A public agency has submitted to CSD a certification from the financial officer responsible for providing the agency with required financial services that it has insufficient or no other allowable funds or in–kind contributions; or

(c) A private, not–for–profit organization has submitted to CSD a certification from its board of directors that it has insufficient or no other allowable funds or in–kind contributions; or

(d) A public agency has submitted to CSD a certification from its governing authority that it has insufficient or no other allowable funds or in–kind contributions.

NOTE: Authority cited: Item 4700–101–0001 2(h), Chapter 324, Statutes of 1998. Reference: Item 4700–101–0001 2(d)(1), Chapter 324, Statutes of 1998.

HISTORY

1. New section filed 1–25–99 as an emergency; operative 1–25–99 (Register 99, No. 5). A Certificate of Compliance must be transmitted to OAL by 5–25–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–25–99 order transmitted to OAL 5–20–99 and filed 7–1–99 (Register 99, No. 27).

§ 100915. Sunset of Regulations.

Regulations in Chapter 4. shall sunset on December 31, 2001, unless otherwise amended.

NOTE: Authority cited: Item 4700–101–0001 2(h), Chapter 324, Statutes of 1998. Reference: Item 4700–101–0001 2(d)(1), Chapter 324, Statutes of 1998.

HISTORY

1. New section filed 1–25–99 as an emergency; operative 1–25–99 (Register 99, No. 5). A Certificate of Compliance must be transmitted to OAL by 5–25–99 or emergency language will be repealed by operation of law on the following day.
2. Change without regulatory effect amending section filed 1–28–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 5).
3. Certificate of Compliance as to 1–25–99 order transmitted to OAL 5–20–99 and filed 7–1–99 (Register 99, No. 27).

Chapter 5. Department of Community Services and Development—Conflict of Interest Code

NOTE: It having been found, pursuant to Government Code Section 11344, that the printing of the regulations constituting the Conflict of Interest Code is impractical and these regulations being of limited and particular application are not published in full in the California Code of Regulations. The regulations are available to the public for review or purchase at cost at the following locations:

DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT
700 NORTH 10TH STREET, ROOM 258
SACRAMENTO, CA 95814

FAIR POLITICAL PRACTICES COMMISSION
428 "J" STREET, SUITE 800
SACRAMENTO, CA 95814

ARCHIVES SECRETARY OF STATE
1020 "O" STREET
SACRAMENTO, CA 95814

The Conflict of Interest Code is designated as Chapter 5, Division 11 of Title 22 of the California Code of Regulations, and consists of sections numbered and titled as follows:

Chapter 5. Department of Community Services and Development—Conflict of Interest Code

Section
101115. General Provisions
Appendix

NOTE: Authority cited: Sections 87300 and 87304, Government Code. Reference: Section 87300, et seq., Government Code.

HISTORY

1. New chapter 2 (section 101115 and Appendix) filed 10–16–86, operative 11–15–86. Approved by Fair Political Practices Commission 9–9–86 (Register 86, No. 43).
2. Amendment of chapter number filed 7–1–91; operative 8–5–91. Approved by Fair Political Practices Commission 7–1–91 (Register 91, No. 43).
3. Amendment filed 2–16–94; operative 3–18–94. Submitted to OAL for printing only. Approved by Fair Political Practices Commission 9–7–93 (Register 94, No. 7).
4. Amendment of chapter heading, section and appendix filed 5–18–98; operative 6–17–98. Approved by Fair Political Practices Commission 3–12–98 (Register 98, No. 21).
5. Change without regulatory effect relocating chapter 3 heading to new placement preceding section 100900 and renumbering former chapter 3 to chapter 5, including corresponding amendments in text, filed 1–28–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 5).
6. Amendment of section and Appendix filed 1–3–2007; operative 2–2–2007. Approved by Fair Political Practices Commission 10–27–2006 (Register 2007, No. 1).

* * *

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Title 22. Social Security

Division 12. Child Care Facility Licensing Regulations

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Division 12. Child Care Facility Licensing Regulations

Chapter 1. Child Care Center General Licensing Requirements

Article 1. General Requirements and Definitions

§ 101151. General.

(a) The general regulations in this chapter shall apply to all child care centers regulated by Division 12, except where specifically exempted. Additional or special requirements found in the corresponding subchapters pertaining to each category shall apply only to such individual child care center categories.

(b) The licensee shall ensure compliance with all applicable laws and regulations.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. Editorial correction readopting Division 6, Chapter 1 (Articles 1–7, Sections 80000–80088, not consecutive) as new Division 12, Chapter 1 (Articles 1–7, Sections 101151–101239, not consecutive), filed 7–1–85; designated effective 7–1–85 (Register 85, No. 27).
2. Change without regulatory effect (Register 86, No. 29).
3. Amendment of chapter 1 heading and amendment of subsection (a) filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101152. Definitions.

The following general definitions shall apply wherever the terms are used throughout Division 12, Chapter 1, except where specifically noted otherwise. Any additional definitions found at the beginning of any subchapter in this chapter shall apply only to such specific child care center category.

(a)(1) "Administrator" means the licensee, or the adult designated by the licensee to act in his/her behalf in the overall management of the facility.

(2) "Adult" means a person who is 18 years of age or older.

(3) "Applicant" means any adult, general partner(s) of a partnership, corporation, county, city, public agency or other governmental entity that has applied for a child care center license.

(4) "Assistant Infant Care Center Director" ("Assistant Director") means the individual as specified in Section 101415.1 designated by the child care center director to act in his or her behalf in the overall management of an infant care center.

(5) "Authorized Representative" means any person or entity authorized by law to act on behalf of any child. Such person or entity may include but not be limited to a minor's parent, a legal guardian, a conservator or a public placement agency.

(b)(1) "Basic Services" means those services required by applicable laws and regulations to be provided by the licensee in order to obtain and maintain a child care center license.

(c)(1) "California Clearance" means an individual has no felony or misdemeanor convictions reported by the California Department of Justice. However, the individual may have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.

(2) "Capacity" means the maximum number of children authorized to be provided care and supervision at any one time in any licensed child care center.

(3) "Care and Supervision" means any one or more of the following activities provided by a person or child care center to meet the needs of children in care:

(A) Assistance in diapering, toileting, dressing, grooming, bathing and other personal hygiene.

(B) Assistance with taking medications as specified in Sections 101226(e)(3) and (e)(4).

(C) Storing and/or distribution of medications as specified in Section 101226(e).

(D) Arrangement of and assistance with medical and dental care.

(E) Maintenance of rules for the protection of children.

(F) Supervision of children's schedules and activities for the protection of children.

(G) Monitoring food intake or special diets.

(H) Providing basic services as defined in Section 101152.b.(1).

(4) "Child" means a person under 18 years of age who is being provided care and supervision in a child care center, except where specified otherwise.

(5) "Child Abuse Central Index" means the California Department of Justice maintained statewide, multi–jurisdictional, centralized index of child abuse investigation reports. These reports pertain to alleged incidents of physical abuse, sexual abuse, mental/emotional abuse and/or severe neglect. Each child protection agency (police, sheriff, county welfare and probation departments) is required by law to forward to the California Department of Justice a report of every child abuse incident it investigates, unless an incident is determined to be unfounded.

(6) "Child Abuse Central Index Clearance" means that the California Department of Justice has conducted a name search of the index and the search did not result in a match or the search resulted in a match but the California Department of Social Services determined after an investigation that the allegation of child abuse or neglect was not substantiated.

(7) "Child Care Center" or "Day Care Center" (or "center") means any child care facility of any capacity, other than a family child care home as defined in Section 102352f.(1), in which less than 24–hour per day non–medical care and supervision are provided to children in a group setting. The term "Child Care Center" supersedes the term "Day Care Center" as used in previous regulations.

(8) "Child Care Center Director" or "Day Care Center Director" means the administrator of a child care center. The term "Child Care Center Director" supersedes the term "Day Care Center Director" as used in previous regulations.

(A) The term "head teacher" is an acceptable substitute for the term "child care center director" provided that the head teacher meets the qualifications of a child care center director and there is written delegation of responsibilities as specified in Section 101215.1(c)(1).

(9) "Child Care Facility" or "Child Day Care Facility" (or "facility") means any place or building in which less than 24–hour per day nonmedical care and supervision, as defined in Section 101152c.(2), are provided to children in a group setting. The term "Child Care Facility" supersedes the term "Child Day Care Facility" as used in previous regulations.

(10) "Combination Center" means any combination of child care center, infant center, school–age child care center, and child care center for mildly ill children that is owned and operated by one licensee at a common address.

(11) "Completed Application" means:

(A) The applicant has submitted and the Department has received all required materials including: an approved fire clearance, if appropriate, from the State Fire Marshal; and a criminal record clearance on the applicant and any other individuals specified in Section 101170.

(B) The Department has completed a site visit to the child care center.

(12) "Control of Property" means the right to enter, occupy and maintain the operation of the child care center property within regulatory requirements. Evidence of control of property may include, but is not limited to, the following:

(13) "Conviction" means:

(A) A criminal conviction in California; or

(B) Any criminal conviction of another state, federal, military or other jurisdiction, which if committed or attempted in California, would have been punishable as a crime in California.

(14) "Criminal Record Clearance" means an individual has a California Department of Justice clearance and an FBI clearance.

(A) a Grant Deed showing ownership; or

(B) the lease agreement or rental agreement; or

(C) a court order or similar document that shows the authority to control the property pending outcome of a probate proceeding or an estate settlement.

(d)(1) "Deficiency" means any failure to comply with any provision of the California Child Day Care Act (Health and Safety Code, section 1596.70, et seq.) and/or regulations adopted by the Department pursuant to the Act.

(2) "Department" means the California Department of Social Services (CDSS) or any state, county or other public agency authorized by CDSS to assume specified licensing responsibilities pursuant to Health and Safety Code Sections 1596.77 and 1596.82. The term "Department" supersedes the term "Licensing Agency" as used in previous regulations.

(3) "Developmental Disability" means a disability as defined in Welfare and Institutions Code Section 4512(a).

(4) "Director" means the director of the California Department of Social Services.

(e)(1) "Emergency Approval to Operate" (EAO) (LIC 9117 [4/93]) means a temporary approval to operate a facility for no more than 60 days pending the Department's decision on whether to approve or deny a provisional license.

(2) "Emergency Substitute," as described in Section 101216.3(h)(1), means a person at least 18 years of age.

(3) "Evaluator" means any person who is a duly authorized officer, employee or agent of the Department, including any officer, employee or agent of a county or other public agency authorized by the Department to license child care centers.

(4) "Evidence of Licensee's Death" shall include, but is not limited to, a copy of the death certificate, obituary notice, certification of death from the decedent's mortuary or a letter from the attending physician or coroner's office verifying the licensee's death.

(5) "Exception" means a written authorization issued by the Department to use alternative means which meet the intent of a specific regulation and that are based on the unique needs or circumstances of a specific child or staff person. Exceptions are not transferable or applicable to other children, staff persons, child care centers or licensees.

(6) "Exemption" means an exception to the requirements of Health and Safety Code Section 1596.871 and applicable regulations. Exemptions are not transferable.

(7) "Existing Child Care Center" means any child care center operating under a valid, unexpired license on the date this chapter becomes effective.

(f)(1) "Federal Bureau of Investigation (FBI) Clearance" means an individual has no felony or misdemeanor convictions reported by the FBI. The individual may also have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.

(g)(1) "Guardian" means any person appointed by the Superior Court, or court of competent jurisdiction, to care for the person, or estate, or the person and estate of another, as the legal guardian pursuant to law.

(h) (Reserved)

(i)(1) "Infant" means a child under two years of age.

(2) "Infant Care Center" means any child care center or part of a child care center of any capacity where less than 24–hour per day nonmedical care and supervision are provided to infants in a group setting.

(3) "Infant Care Center Director" means the administrator of an infant care center as specified in section 101415.

(4) "Infant Care Teacher" means a teacher as specified in section 101416.2.

(j) (Reserved)

(k) (Reserved)

(*l*)(1) "License" means a written authorization by the Department to operate a child care center and to provide care and supervision. A license is not transferable.

(2) "Licensee" means the adult, general partner(s) of a partnership, controlling partners in a limited liability corporation, corporation, county, city, public agency or other governmental entity having the authority and responsibility to operate a licensed child care center.

(3) "Licensing Agency" — See "Department" as specified in Section 101152d.(2). The term "Department" supersedes the term "Licensing Agency" as used in previous regulations.

(m)(1) "Medical Professional" means an individual who is licensed or certified in California to perform the necessary medical procedures within his/her scope of practice. This includes, but is not limited to, Medical Doctor (MD), Registered Nurse (RN) and Licensed Vocational Nurse (LVN).

(2) "Mental Disorder" means any of the disorders set forth in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition), published by the American Psychiatric Association, and a degree of functional impairment that renders a person eligible for the services enumerated under the Lanterman–Petris–Short Act (commencing with Section 5000 of the Welfare and Institutions Code).

(n)(1) "Nonambulatory Person" is defined in Health and Safety Code Section 13131.

(A) A person who uses supportive restraints as specified in Section 101223.1 is deemed nonambulatory.

(B) A person is not deemed nonambulatory solely because he/she is deaf, blind, or prefers to use a mechanical aid.

(o) (Reserved)

(p)(1) "Physician" means a person licensed as a physician and surgeon by the Medical Board of California or the Osteopathic Medical Board of California.

(2) "Preschool–age child" means a child as defined in Health and Safety Code Section 1597.059.

(3) "Provide" or "Provision" means to make available any service or personnel to meet licensing or other requirements.

(4) "Provisional License" means a temporary license issued in accordance with the criteria specified in Section 101181.

(q)(1) "Qualified Teacher Substitute" means a person at least 18 years of age with at least six postsecondary semester or equivalent quarter units in early childhood education or child development.

(r)(1) "Rehabilitation" means the effort to reestablish good character since the date of the last conviction, including, but not limited to, education, counseling or therapy, training, stable employment, restitution, remorse, changes in lifestyle, or community service.

(2) "Relative" means spouse, parent, stepparent, son, daughter, brother, sister, stepbrother, stepsister, half–brother, half–sister, uncle, aunt, nephew, niece, first cousin or any such person denoted by the prefix "grand" or "great," or the spouse of any of the persons specified in this definition even after the marriage has been terminated by death or dissolution.

(s)(1) "School–Age Child" means any child who meets one of the following:

(A) Has entered the first grade or above;

(B) Is in a child care program providing care and supervision exclusively to children enrolled in kindergarten and above.

(2) "School–Age Child Care Center" means any child care center or part of a child care center of any capacity where less than 24–hour per day nonmedical care and supervision are provided to school–age children in a group setting.

(3) "Serious Deficiency" means any deficiency that presents an immediate or substantial threat to the physical health, mental health or safety of the children in a child care center.

(4) "Simplified Exemption" means an exemption granted on the Department's own motion, as authorized in Health and Safety Code Section 1596.871(c)(3), if the individual's criminal history meets specific criteria established by Department regulation.

(5) "Substantial Compliance" means the absence of any serious deficiencies.

(t)(1) "Toddler Component" means the component of a preschool or infant care program designed for children between the ages of 18 months and 30 months.

(u)(1) "Urgent Need" means a situation where prohibiting the operation of the child care center would be detrimental to a child's physical health, mental health, safety or welfare. Circumstances constituting urgent need include but are not limited to:

(A) A change in the location of the child care center when children are in need of services from the same operator at the new location.

(B) A change of ownership of the child care center when children are in need of services from a new operator.

(v) (Reserved)

(w)(1) "Waiver" means a nontransferable written authorization issued by the Department to use alternative means which meet the intent of a specific regulation and that are based on a facility–wide need or circumstance.

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

NOTE: Authority cited: Sections 1596.81 and 1596.858(e), Health and Safety Code. Reference: Sections 1502, 1596.72, 1596.73, 1596.74, 1596.75, 1596.750, 1596.76, 1596.77, 1596.770, 1596.78, 1596.79, 1596.790, 1596.791, 1596.81, 1596.858(e), 1596.955 and 1596.956, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Change without regulatory effect amending lettering and correcting cross–references filed 5–28–91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 28).
3. Editorial correction of printing errors in subsections (a)(2),(c)(3) and (*l*)(1) (Register 92, No. 34).
4. New subsections (c)(6)–(c)(6)(C), (e)(1) and (e)(3), subsection renumbering, and amendment of NOTE filed 6–15–93; operative 7–15–93 (Register 93, No. 25).
5. New subsection (t)(1) and amendment of NOTE filed 8–22–94; operative 9–21–94 (Register 94, No. 34).
6. Amendment of section and NOTE filed 9–14–98; operative 11–1–98 (Register 98, No. 38).
7. Editorial correction (Register 2002, No. 39).
8. Amendment filed 7–14–2003 as an emergency; operative 7–16–2003 (Register 2003, No. 29). A Certificate of Compliance must be transmitted to OAL by 11–13–2003 or emergency language will be repealed by operation of law on the following day.
9. Amendment refiled 11–12–2003 as an emergency; operative 11–12–2003 (Register 2003, No. 46). A Certificate of Compliance must be transmitted to OAL by 3–11–2004 or emergency language will be repealed by operation of law on the following day.
10. Amendment refiled 3–11–2004 as an emergency; operative 3–11–2004 (Register 2004, No. 11). A Certificate of Compliance must be transmitted to OAL by 7–9–2004 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance as to 3–11–2004 order, including further amendment of section, transmitted to OAL 7–9–2004 and filed 8–20–2004 (Register 2004, No. 34).

Article 2. Licensing

§ 101156. License Required.

(a) Unless a child care arrangement is exempt from licensure as specified in Section 101158, no adult, general partners of a partnership, controlling partners in a limited liability corporation, corporation, county, city, public agency or other governmental entity shall operate, establish, manage, conduct or provide care and supervision as defined in Section 101152c.(2) without a valid license from the Department.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.80, 1596.81(b), 1596.805, 1596.84 and 1596.85, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101157. Operation Without a License.

(a) If an unlicensed child care center is providing care and supervision as defined in Section 101152c.(2), the center is in violation of Health and Safety Code Section 1596.80 unless exempted from licensure pursuant to Section 101158.

(b) If a child care center is alleged to be in violation of Health and Safety Code Section 1596.80, the Department shall conduct a site visit and/or evaluation of the center pursuant to Health and Safety Code section 1596.853.

(c) If a child care center is operating without a license, the Department shall issue a Notice of Operation in Violation of Law and shall refer the case for criminal prosecution and/or civil proceedings.

(d) The Department has the authority to issue an immediate civil penalty pursuant to Section 101198 and Health and Safety Code Section 1596.891.

(e) Sections 101157(c) and (d) shall be applied pursuant to Health and Safety Code Section 1596.892.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.792, 1596.80, 1596.81(b), 1596.89, 1596.890, 1596.891 and 1596.892, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment of subsection (c) and new subsections (d) and (e) filed 8–17–88; operative 9–16–88 (Register 88, No. 34).
3. Change without regulatory effect amending lettering and correcting cross–references filed 5–28–91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 28).
4. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).
5. Editorial correction (Register 2002, No. 39).

§ 101158. Exemption from Licensure.

(a) As specified in Health and Safety Code Section 1596.792, the child care center regulations contained in this division shall not apply to any of the following:

(8) Public and private schools that operate a program before and/or after school for school–age children provided all of the following conditions are met:

(A) The program offered by a school must be operated by the school and run by qualified teachers employed by the school or the school district.

(B) An outside organization or individual using a public or private school site to operate a child care program is subject to licensure, even if the program is open only to the children enrolled at that school.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.792, 1596.793 and 1596.81(b), Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. New subsections (a)(6) and (a)(7) filed 2–5–88; operative 3–6–88 (Register 88, No. 8).
3. Editorial correction of printing error inadvertently omitting text (Register 90, No. 36).
4. Change without regulatory effect amending subsection (a) filed 1–5–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 1).
5. Editorial correction deleting subsections (a)(1)–(a)(5) and (a)(7) and redesignating subsection (a)(6) to (a)(8) (Register 98, No. 38).
6. Amendment of subsections (a) and (a)(8) filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101159. Licensing of Integral Facilities.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.73 and 1596.80, Health and Safety Code.

HISTORY

1. Repealer filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101160. Posting of License.

(a) The license shall be posted in a prominent, publicly accessible location in the center.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. Renumbering of former section 101260 to new section 101160 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101161. Limitations on Capacity and Ambulatory Status.

(a) A licensee shall not operate a child care center beyond the conditions and limitations specified on the license, including the capacity limitation.

(b) Child care centers or rooms approved for ambulatory children only shall not be used by nonambulatory children.

(1) Children whose condition becomes nonambulatory shall not use rooms or areas restricted to ambulatory children.

(2) The Department has the authority to require children who use ambulatory sections of the child care center to demonstrate that they are ambulatory.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81(b) and 1596.95, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101162. Advertisements and License Number.

(a) No person or legal entity shall advertise or represent itself as a licensed child care center without first obtaining a current valid license from the Department.

(1) Licensees shall reveal each child care center license number in all advertisements in accordance with Health and Safety Code Section 1596.861.

(b) Correspondence is considered a form of advertisement only if the intent is to attract clients.

NOTE: Authority cited: Section 1596.81(a), Health and Safety Code. Reference: Section 1596.861, Health and Safety Code.

HISTORY

1. New section filed 4–26–91; operative 5–26–91 (Register 91, No. 24).
2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).
3. Editorial correction of subsection (a)(1) and HISTORY 1 (Register 2002, No. 39).

§ 101163. False Claims.

(a) No licensee, officer or employee of a licensee shall make or disseminate any false or misleading statement regarding the child care center or any of the services provided by the center.

(b) No licensee, officer or employee of a licensee shall alter a license, or disseminate an altered license.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1596.95, Health and Safety Code.

HISTORY

1. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

Article 3. Application Procedures

§ 101167. Transfer and Sale.

(a) A license is not transferable.

(1) If the sale of a licensed child care center will result in the issuance of a new license, the requirements of Health and Safety Code Section 1597.14 apply.

(2) In the event of the sale and transfer of property and business, the applicant (buyer) shall be issued an Emergency Approval to Operate (EAO) (LIC 9117 [4/93]) if the applicant (buyer) complies with Health and Safety Code Section 1597.14.

(3) The applicant (buyer) who is issued an EAO (LIC 9117 [4/93]) shall perform all the duties, functions and responsibilities required of a licensee.

(4) Failure to comply with licensing laws and regulations under this section, as determined by the Department, shall result in the denial of the application for a license. This denial shall also constitute termination of the EAO (LIC 9117 [4/93]).

(5) The Department shall provide to the applicant (buyer) written notification of the denial. This notice shall be effective immediately upon receipt.

(b) "A bona fide offer," as specified in Health and Safety Code Section 1597.14(a)(1), means a proposal by the buyer to purchase the child care center with definite terms in writing communicated to the seller and accompanied by a cash deposit.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.14, Health and Safety Code.

HISTORY

1. New section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101168. Applicant Qualifications.

(a) Any adult may apply for a license regardless of age, sex, race, religion, color, political affiliation, national origin, disability, marital status, actual or perceived sexual orientation, or ancestry.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code; and Section 51, Civil Code.

HISTORY

1. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).
2. Editorial correction of NOTE (Register 2002, No. 39).
3. Change without regulatory effect amending subsection (a) and NOTE filed 12–10–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 50).

§ 101169. Application for License.

(a) Any adult, partnership, corporation, county, city, public agency or other governmental entity wishing to obtain a license shall fill out and file with the Department an Application Booklet (LIC 281A [12/96]), as well as submit to the Department the documents specified in Section 101169(d) below.

(1) Applicants for licensure of a combination center may file one application.

(A) Licensees requesting the addition of a toddler component to their preschool or infant care program shall submit an amended application consisting of an Application for a Child Day Care Center License (LIC 200A [12/92]); a program description; a sketch of the center showing where the toddler component will be located; a schedule for outdoor activities; and, if necessary, a fire clearance. The toddler component is considered an extension of the preschool or infant care license.

(2) Each separately licensed component of a single program shall be capable of independently meeting the provisions of applicable regulations as determined by the Department.

(3) The Department has the authority to issue one license to a single program, or to a separately licensed component of a single program, that is located in multiple buildings at a common address.

(b) Prior to filing an LIC 281A (12/96) and the documents specified in Section 101169(d) below, the applicant shall attend an orientation provided by the Department.

(1) The orientation shall cover, but not be limited to, the following areas:

(A) How to complete the application process.

(B) Scope of child care center operation subject to regulation by the Department.

(2) A licensee applying for another child care center license need not attend another orientation within two years of completing a previous orientation.

(3) An applicant applying for more than one child care center license is only required to attend one orientation.

(c) The applicant/licensee shall cooperate with the Department in providing verification and/or documentation as requested by the Department.

(d) The LIC 281A (12/96) and supporting documents shall together contain the following:

(1) Name (or proposed name) and address of the child care center.

(2) Name, and residence and mailing addresses of applicant.

(A) If the applicant is a partnership, copies of the partnership agreement and all documents governing the partnership, as well as the name and principal business address of each partner.

(B) If the applicant is a corporation or association, the name, title and principal business address of each officer, executive director and member of the governing board.

(C) If the applicant is a corporation that issues stock, the name and address of each person owning more than 10 percent of stock in the corporation.

(D) If the applicant is a corporation, a copy of the articles of incorporation, the constitution, the bylaws, and the board resolution authorizing the submission of the application.

(E) If the applicant is a corporation, each member of the board of directors, executive director, and any officer shall list the name of all facilities which they have been licensed to operate, employed by or a member of the board of the directors, executive director or an officer.

(3) If the applicant is leasing or renting the premises of the child care center, a copy of the lease or rental agreement and the name, address and telephone number of the property owner.

(4) The category of child care center to be operated.

(5) Maximum number of children to be served.

(6) Age range and the categories of children to be served including, but not limited to, children with disabilities and/or nonambulatory children.

(7) Hours or periods of operation of the child care center.

(8) Name of administrator.

(9) Information required by Health and Safety Code Section 1596.95(d).

(10) Information required by Health and Safety Code Section 1596.95(e).

(11) Name, address and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's office with jurisdiction in the area where the child care center is located.

(12) A plan of operation as specified in Section 101173.

(13) Fingerprint cards as specified in Section 101170.

(14) Requests to check the Child Abuse Registry as required by Health and Safety Code Section 1596.877.

(15) A health–screening report on the applicant as specified in Section 101216(g).

(16) The processing fee for an application as specified in Section 101187.

(17) Water supply clearance as specified in Section 101172.

(18) Evidence that the applicant has posted signs at the entrance to the child care center that provide the telephone number of the local health department and information on child passenger restraint systems pursuant to Health and Safety Code Section 1596.95(g) and Vehicle Code Section 27360(b).

(A) The signs shall provide all of the following information:

1. Protect your child—it is the law.

2. Children under the age of four years, regardless of weight, or weighing less than 40 pounds, regardless of age, must be in an approved child passenger restraint system.

3. You may be cited for a violation of the child passenger restraint system provisions. In addition, your automobile insurance rates could be adversely affected as a result.

4. Call your local health department for more information.

(19) Such other information as may be required pursuant to Health and Safety Code Section 1596.95(h).

(20) Evidence regarding the applicant's reputable and responsible character as required by Health and Safety Code Section 1596.95(b).

(e) The application shall be signed by the applicant.

(1) If the applicant is a partnership, the application shall be signed by each partner.

(2) If the applicant is a corporation, county, city, public agency or other governmental entity, the application shall be signed by the chief executive officer or the authorized representative.

(f) The application shall be filed with the Department's office that serves the geographical area in which the child care center is located.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81(b), 1596.83, 1596.856, 1596.877, 1596.95, 1596.952(a), 1596.955 and 1596.956, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment of subsection (a) filed 4–6–87; operative 5–6–87 (Register 87, No. 16).
3. Amendment of subsection (c) filed 12–30–87 as an emergency; operative 1–1–88 (Register 88, No. 2). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5–2–88.
4. Certificate of Compliance transmitted to OAL 4–28–88 and filed 5–31–88 (Register 88, No. 30).
5. New subsection (b), amendment of subsection (d) and NOTE, and subsection renumbering filed 10–9–91; operative 11–8–91 (Register 92, No. 8).
6. New subsection (a)(1)(A) and amendment of NOTE filed 8–22–94; operative 9–21–94 (Register 94, No. 34).
7. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).
8. Amendment of subsection (d)(2)(B), new subsection (d)(2)(E) and amendment of NOTE filed 10–4–2000; operative 11–3–2000 (Register 2000, No. 40).
9. Editorial correction of subsection (b)(1) (Register 2002, No. 39).

§ 101170. Criminal Record Clearance.

(a) The Department shall conduct a criminal record review of all persons specified in Health and Safety Code Section 1596.871(b). The Department has the authority to approve or deny a facility license, or employment, residence or presence in the facility, based on the results of this review.

(b) The following individuals are exempt from the requirement to submit fingerprints:

(1) A volunteer who is a relative, legal guardian, or foster parent of a child in the facility.

(2) A volunteer that provides time–limited specialized services if all of the following apply:

(A) The volunteer is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption.

(B) The volunteer spends no more than 16 hours per week at the facility.

(C) The volunteer is not left alone with children in care.

(3) A volunteer who is a senior citizen if all of the following apply:

(A) The senior citizen participates in a Foster Grandparent Program under the authority of the National Senior Service Corps and administered by the Corporation for National Service.

(B) The facility has an agreement with the foster grandparent program concerning the placement of the foster grandparent.

(C) The foster grandparent is supervised by the licensee or a facility employee with a criminal record clearance or exemption.

(D) The foster grandparent is not left alone with children in care.

(4) A student who is enrolled or participating at an accredited educational institution if all of the following apply:

(A) The student is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption.

(B) The facility has an agreement with the educational institution concerning the placement of the student.

(C) The student spends no more than 16 hours per week at the facility.

(D) The student is not left alone with the children in care.

(5) A third–party repair person, or similar retained contractor, if all of the following apply:

(A) The individual is hired for a defined, time–limited job.

(B) The individual is not left alone with children.

(C) When children are present in the room in which the repairperson or contractor is working, a staff person who has a criminal record clearance or exemption is also present.

(6) A medical professional, as defined in Section 101152(m)(1), who holds a valid license or certification from the individual's governing California medical care regulatory entity if all of the following apply:

(A) The criminal record of the individual has been cleared as a condition of licensure or certification by the individual's California medical care regulatory entity.

(B) The individual is providing time-limited specialized clinical care or services.

(C) The individual is providing care or services within the individual's scope of practice.

(D) The individual is not a community care facility licensee and is not employed, retained, or contracted by the licensee.

(7) Employees of a licensed home health agency who have a contract with a child's parent or guardian and are in the facility at the request of that parent or guardian.

(A) The exemption shall not apply to an individual who is employed, retained or contracted by the licensee.

(8) An attendant or facilitator for a child with a developmental disability who is visiting the child or providing direct care and supervision to the child.

(A) The exemption shall not apply to an individual who is employed, retained or contracted by the licensee.

(c) Prior to the Department issuing a license, the applicant and the administrator shall obtain a California criminal record clearance or exemption.

(d) All individuals subject to criminal record review shall, be fingerprinted and sign a Criminal Record Statement (LIC 508 [Rev. 1/03]) under penalty of perjury.

(1) A person signing the LIC 508 must:

(A) Declare whether he/she has been convicted of a crime, other than a minor traffic violation as specified in Section 101170(k) regardless of whether the individual was granted a pardon for the conviction, received an expungement pursuant to Penal Code 1203.4 or the individual's record was sealed as a result of a court order.

(B) If convicted of a crime other than a minor traffic violation as specified in Section 101170(k), provide information regarding the conviction.

(2) The licensee shall submit these fingerprints to the California Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, or comply with Section 101170(e)(1), prior to the individual's employment or initial presence in the child care facility.

(A) Fingerprints shall be submitted to the California Department of Justice by the licensee or sent by electronic transmission to the California Department of Justice by a fingerprinting entity approved by the California Department of Social Services.

(e) All individuals subject to a criminal record review pursuant to Health and Safety Code Section 1596.871 shall prior to working, residing or volunteering in a licensed facility:

(1) Obtain a California clearance or a criminal record exemption as required by the Department or

(2) Request a transfer of a criminal record clearance as specified in Section 101170(f) or

(3) Request and be approved for a transfer of a criminal record exemption, as specified in Section 101170.1(r), unless, upon request for a transfer, the Department permits the individual to be employed, reside or be present at the facility.

(f) A licensee or applicant for a license may request a transfer of a criminal record clearance from one state licensed facility to another, or from TrustLine to a state licensed facility by providing the following documents to the Department:

(1) A signed Criminal Background Clearance Transfer Request, LIC 9182 (Rev. 4/02).

(2) A copy of the individual's driver's license, or

(3) A valid identification card issued by the Department of Motor Vehicles, or

(4) A valid photo identification issued by another state or the United States government if the individual is not a California resident.

(5) Any other documentation required by the Department (e.g., LIC 508, Criminal Record Statement [Rev. 1/03] and job description).

(g) The licensee shall maintain documentation of criminal record clearances or criminal record exemptions of employees in the individual's personnel file as required in Section 101217.

(h) Violation of Section 101170(e) will result in a citation of a deficiency and an immediate assessment of civil penalties of one hundred dollars ($100) per violation per day for a maximum of five (5) days by the Department.

(1) Subsequent violations within a twelve (12) month period will result in a civil penalty of one hundred dollars ($100) per violation per day for a maximum of thirty (30) days.

(2) The Department may assess civil penalties for continued violations as permitted by Health and Safety Code Section 1596.99.

(i) Violation of Section 101170(e) may result in a denial of the license application or suspension and/or revocation of the license.

(j) The licensee shall maintain documentation of criminal record clearances or criminal record exemptions of volunteers that require fingerprinting.

(1) Documentation shall be available for inspection by the Department.

(k) If the criminal record transcript of any individuals specified in the Health and Safety Code Section 1596.871(b) discloses a plea or verdict of guilty, or a conviction following a plea of nolo contendere, for any crime other than a minor traffic violation for which the fine was less than $300 and an exemption pursuant to Section 101170.1(a) has not been granted, the Department shall take the following actions:

(1) For initial applicants, denial of the application.

(2) For current licensees, the Department may institute an administrative action, including, but not limited to, revocation of the license.

(3) For current employees, exclude the affected individual pursuant to Health and Safety Code Section 1596.8897, and deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.

(4) For convicted individuals residing in the facility, licensee or employee, exclusion of the affected individual pursuant to Health and Safety Code Section 1596.8897, and denial of the application or revocation of the license, if the individual continues to provide services and/or reside at the facility.

(*l*) The Department may seek verification from a law enforcement agency or court of an individual's criminal record as reported to the Department from any member of the public or affected individual.

(1) Upon obtaining confirmation from a law enforcement agency or court of the offense, the Department shall proceed as if this criminal record information was provided by the California Department of Justice.

(m) If the Department determines that any licensee or individual specified in Health and Safety Code Section 1596.871(b) is arrested for a crime for which, if convicted, an individual is not eligible, by law, to receive an exemption, pending completion of its investigation into the facts underlying the arrest, the Department may take the following actions:

(1) If the arrested individual is a licensee, the Department may notify the licensee, by telephone or in writing, to immediately cease operation for up to 30 days.

(2) If the individual arrested is not a licensee, the Department may notify the licensee and the individual associated with the facility, by telephone or in writing, that the individual may not be present in the facility for up to 30 days.

(n) After the Department notifies the licensee, pursuant to Section 101170(o)(1), or the individual pursuant to Section 101170(o)(2), he or she may present a written appeal that:

(1) he or she is not the individual who was arrested,

(2) he or she has not been arrested for a crime that by law an individual is not eligible to receive an exemption, or

(3) he or she was arrested for a crime that by law an individual is not eligible to receive an exemption but the charges have been dropped or reduced to a crime that by law an individual would be eligible to receive an exemption.

The appeal shall contain the licensee's or individual's current address and telephone number. After the Department receives the appeal and any supporting documentation, it shall review the appeal and notify the licensee or individual of its decision within five (5) working days.

(o) Should the Department determine at any time during the 30 days referred to in Sections 101170(o)(1) and (o)(2) that the criminal charges have been dropped or reduced to a charge for a crime that by law an individual would be eligible to receive an exemption, the Department shall immediately rescind the notice.

(p) Nothing in this action shall be interpreted to supercede the Department's authority under Sections 1596.886 and 1596.8897 of the Health and Safety Code.

NOTE: Authority cited: Sections 1596.81 and 1596.98(c), Health and Safety Code. Reference: Sections 1596.81(b), 1596.871 and 1596.99, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment of subsection (f) filed 6-5-87; operative 7-5-87 (Register 87, No. 25).
3. Amendment of subsection (c)(1) filed 2-5-88; operative 3-6-88 (Register 88, No. 8).
4. Change without regulatory effect amending subsection (c)(1) filed 3-10-92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 15).
5. Amendment of section and NOTE filed 9-14-98; operative 11-1-98 (Register 98, No. 38).
6. Amendment filed 5-18-2000 as an emergency; operative 5-18-2000 (Register 2000, No. 20). Pursuant to Section 73 of Senate Bill 933, Chapter 311, Statutes of 1998 a Certificate of Compliance must be transmitted to OAL by 11-14-2000 or emergency language will be repealed by operation of law on the following day.
7. Editorial correction of HISTORY 6 (Register 2000, No. 38).
8. Certificate of Compliance as to 5-18-2000 order, including further amendment of section, transmitted to OAL 11-14-2000 and filed 12-19-2000 (Register 2000, No. 51).
9. Amendment filed 7-14-2003 as an emergency; operative 7-16-2003 (Register 2003, No. 29). A Certificate of Compliance must be transmitted to OAL by 11-13-2003 or emergency language will be repealed by operation of law on the following day.
10. New subsections (o)-(r) filed 7-24-2003 as an emergency; operative 7-24-2003 (Register 2003, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-21-2003 or emergency language will be repealed by operation of law on the following day.
11. Amendment refiled 11-12-2003 as an emergency; operative 11-12-2003 (Register 2003, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-11-2004 or emergency language will be repealed by operation of law on the following day.
12. Certificate of Compliance as to 7-24-2003 order transmitted to OAL 11-21-2003 and filed 12-30-2003 (Register 2004, No. 1).
13. Editorial correction of HISTORY 12 (Register 2004, No. 11).
14. Amendment refiled 3-11-2004 as an emergency; operative 3-11-2004 (Register 2004, No. 11). A Certificate of Compliance must be transmitted to OAL by 7-9-2004 or emergency language will be repealed by operation of law on the following day.
15. Certificate of Compliance as to 3-11-2004 order, including further amendment of section, transmitted to OAL 7-9-2004 and filed 8-20-2004 (Register 2004, No. 34).
16. Amendment of subsection (h), new subsection (h)(1), subsection renumbering, amendment of newly designated subsection (h)(2), repealer of subsection (*l*), subsection relettering and amendment of NOTE filed 7-11-2006; operative 8-10-2006 (Register 2006, No. 28).
16. Amendment of subsection (h), new subsection (h)(1), subsection renumbering, amendment of newly designated subsection (h)(2), repealer of subsection (*l*), subsection relettering and amendment of NOTE filed 7-11-2006; operative 8-10-2006 (Register 2006, No. 28).

§ 101170.1. Criminal Record Exemption.

(a) The Department will notify a licensee to act immediately to terminate the employment of, remove from the facility or bar from entering the facility any person described in Sections 101170.1(a)(1) through (5) below while the Department considers granting or denying an exemption. Upon notification, the licensee shall comply with the notice.

(1) Any person who has been convicted of, or is awaiting trial for, a sex offense against a minor;

(2) Any person who has been convicted of a felony;

(3) Any person who has been convicted of an offense specified in Sections 243.4, 273a, 273d, 273g, or 368 of the Penal Code or any other crime specified in Health and Safety Code Section 1596.871(c)(2);

(4) Any person who has been convicted of any crime specified below:

(A) Battery

(B) Shooting at Inhabited Dwelling

(C) Corporal Injury on Spouse/Cohabitant

(D) Discharging Firearm with Gross Negligence

(E) Exhibiting Weapon/Firearm

(F) Threat to Commit a Crime Resulting in Gross Bodily Injury or Death

(G) Criminal Threat to Harm or Injure Another Person

(H) Cruelty to Animals

(I) Willful Harm or Injury to Child; or

(5) Any other person ordered to be removed by the Department.

(b) In addition to the requirements of Section 101170.1(a), the licensee must return the confirmation of removal form that is sent by the Department, within five (5) days of the date of the form, that confirms under penalty of perjury that the individual has been removed from the facility.

(1) Confirmation must be made on either a Removal Confirmation — Exemption Needed, LIC 300A (Rev. 9/03), Removal Confirmation — Denial, LIC 300B (Rev. 9/03), Removal Confirmation — Rescinded, LIC 300C (Rev. 9/03), or Removal Confirmation — Nonexemptible, LIC 300D (Rev. 9/03).

(c) After a review of the criminal record transcript, the Department may grant an exemption if:

(1) The applicant /licensee requests an exemption for himself or herself, or

(2) The applicant/licensee requests an exemption in writing for an individual associated with the facility, or

(3) The applicant/licensee chooses not to seek an exemption on the affected individual's behalf, the affected individual requests an individual exemption in writing, and

(4) The affected individual presents substantial and convincing evidence satisfactory to the Department that he/she has been rehabilitated and presently is of such good character as to justify being issued or maintaining a license, employment or residence in a licensed facility.

(d) To request a criminal record exemption, a licensee or license applicant must submit information that indicates that the individual meets the requirements of Section 101170.1(c)(4). The Department will notify the licensee or license applicant and the affected individual, in concurrent, separate notices, that the affected individual has a criminal conviction and needs to obtain a criminal record exemption.

(1) The notice to the affected individual shall include a list of the conviction(s) that the Department is aware of at the time the notice is sent that must be addressed in an exemption request.

(2) The notice will list the information that must be submitted to request a criminal record exemption.

(3) The information must be submitted within forty-five (45) days of the date of the Department's notice.

(A) Individuals who submit a criminal record exemption request shall cooperate with the Department by providing any information requested by the Department, including, but not limited to, police reports and certified court documents to process the exemption request, pursuant to Section 101170.1(e).

(B) If the individual for whom the criminal record exemption is requested is an employee or resident other than a spouse or dependent family member and the licensee/license applicant does not submit the information listed in the Department's written notice within 45 days of the date of the notice, the Department may cease processing the exemption request and close the case.

(C) If the individual for whom the criminal record exemption is requested is an applicant, licensee, spouse or dependent family member and and the licensee/license applicant does not submit the information listed in the Department's written notice within 45 days of the date of the notice, the Department may deny the exemption request.

(D) Individuals may request a criminal record exemption on their own behalf if the licensee or license applicant:

1. Chooses not to request the exemption and

2. Chooses not to employ or terminates the individual's employment after receiving notice of the individual's criminal history, or

3. Removes the individual who resides in the facility after receiving notice of the individual's criminal history.

(e) The Department shall consider factors including, but not limited to, the following as evidence of good character and rehabilitation:

(1) The nature of the crime including, but not limited to, whether it involved violence or a threat of violence to others.

(2) Period of time since the crime was committed and number of offenses.

(3) Circumstances surrounding the commission of the crime that would demonstrate the unlikelihood of repetition.

(4) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.

(5) A full and unconditional pardon granted by the Governor.

(6) Character references.

(A) All character references shall be on a Reference Request form (LIC 301E — Exemptions [Rev. 7/03]).

(7) A certificate of rehabilitation from a superior court.

(8) Evidence of honesty and truthfulness as revealed in exemption application documents.

(A) Documents include, but are not limited to:

1. A Criminal Record Statement (LIC 508, Criminal Record Statement [Rev. 1/03]) and

2. The individual's written statement/explanation of the conviction and the circumstances about the arrest.

(9) Evidence of honesty and truthfulness as revealed in exemption application interviews and conversations with the Department.

(f) The Department shall also consider the following factors in evaluating a request for an exemption:

(1) Facility and type of association.

(2) The individual's age at the time the crime was committed.

(g) The Department may deny the individual's exemption request if:

(1) The individual fails to provide documents requested by the Department, or

(2) The individual fails to cooperate with the Department in the exemption process.

(h) The reasons for any exemption granted or denied shall be in writing and shall be kept by the Department.

(1) Exemption denial notices shall specify the reason the exemption was denied.

(i) The Department has the authority to grant a criminal record exemption that places conditions on the individual's continued licensure, and employment or presence in a licensed facility.

(j) It shall be conclusive evidence that the individual is not of such good character as to justify issuance of an exemption if the individual:

(1) Makes a knowingly false or misleading statement regarding:

(A) Material relevant to their application for a criminal record clearance or exemption,

(B) His or her criminal record clearance or exemption status to obtain employment or permission to be present in a licensed facility, after the Department has ordered that they be excluded from any or all licensed facilities, or

(C) His or her criminal record clearance or exemption status in order to obtain a position with duties that are prohibited to him/her by a conditional exemption; or

(2) Is on probation or parole.

(A) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the Department may, in its discretion, grant a criminal record exemption notwithstanding Section 101170.1(j)(2).

(k) The Department shall consider granting a criminal record exemption for an individual when the individual's criminal record history meets all of the applicable criteria specified in Sections 101170.1(k)(1) through (6) and the individual provides the Department with substantial and convincing evidence of good character as specified in Section 101170.1(c)(4). For purposes of this section, a violent crime is a crime that, upon evaluation of the code section violated and/or the reports regarding the underlying offense, presents a risk of harm or violence.

(1) The individual has been convicted of one nonviolent misdemeanor, and one year has lapsed since completing the most recent period of incarceration or probation.

(2) The individual has been convicted of two or more nonviolent misdemeanors and four consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.

(3) The individual has been convicted of one or more violent misdemeanors and 15 consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.

(4) The individual has been convicted of one nonviolent felony and four consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.

(5) The individual has been convicted of two or more nonviolent felonies and ten consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.

(6) The individual has not been convicted of a violent felony.

(7) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the period of lapsed time required in Section 101170.1(k)(1) through (5) above shall begin from the last date of conviction(s).

(*l*) It shall be a rebuttable presumption that an individual is not of such good character as to justify the issuance of an exemption if the individual fails to meet the requirements specified in Sections 101170.1(k)(1) through (6).

(m) The Department shall not grant an exemption if the individual has a conviction for any offense specified in Section 1596.871(f) of the Health and Safety Code.

(n) The Department shall consider granting a simplified criminal record exemption if the individual has the criminal history profile outlined in Sections 101170.1(n)(1) through (4) below:

(1) The individual does not have a demonstrated pattern of criminal activity;

(2) The individual has no more than one conviction;

(3) The conviction is a misdemeanor and is a crime that is nonviolent and does not pose a risk of harm to an individual; and

(4) It has been at least five consecutive years since the completion of the most recent period of incarceration or supervised probation.

(o) At the Department's discretion, an individual who is otherwise eligible for a simplified exemption may be required to go through the standard exemption process if the Department determines such action will help to protect the health and safety of clients.

(p) If the Department denies or cannot grant a criminal record exemption the Department shall:

(1) For initial applicants, deny the application.

(2) For current licensees, the Department may institute an administrative action, including, but not limited to, revocation of the license.

(3) For current employees, exclude the affected individual pursuant to Health and Safety Code Section 1596.8897, deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.

(4) For individuals residing in the facility, including spouses of the applicant or the licensee, exclude the affected individual pursuant to Health and Safety Code Section 1596.8897, deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.

(q) If a request for an exemption has been denied, the individual shall be excluded for a period of two years unless the individual has been convicted of a crime for which no exemption may be granted pursuant to Section 101170.1(m). If a request for an exemption has been denied based

on a conviction of a crime for which no exemption may be granted, the individual shall be excluded for the remainder of the individual's life.

(1) If the Department determines during the review of an exemption request, that the individual was denied an exemption for a conviction of a crime for which an exemption may be granted within the preceding two years, the Department shall cease any further review of the request until two years have elapsed from the date of the denial. In cases where the individual requested a hearing on an exemption denial, the Department shall cease review of the request for an exemption until two years from the effective date of the decision and order of the Department upholding the denial. In cases where the individual submitted a petition for reinstatement or reduction in penalty pursuant to Government Code Section 11522 that was denied, the Department shall cease review of the request for an exemption until two years from the effective date of the decision and order of the Department denying the petition.

(2) An exclusion order based solely upon a denied exemption shall remain in effect and the individual shall not be employed in or present in a licensed facility or certified home, unless either a petition or an exemption is granted.

(3) If an individual who has previously been denied an exemption reapplies after the relevant time period described in Section 101170.1(q)(1) above, the Department may, according to the provisions in Section 101170.1 et seq., grant or deny the subsequent request for an exemption.

(4) If an individual submits a petition pursuant to Government Code Section 11522 for reinstatement or reduction of penalty for an exclusion, an individual must submit his/her fingerprints through an electronic fingerprinting system approved by the Department and submit to the Department a statement of the reason why the individual should be permitted to work or be present in a facility, along with all information required of an individual requesting a criminal record exemption as provided in Section 101170.1. If it is determined, based upon information provided by the Department of Justice, that the individual has been convicted of a crime for which no exemption may be granted, the petition shall be denied. An individual's failure to submit fingerprints or other information as requested by the Department, shall be grounds for denial of the petition. The burden shall be on the petitioner to prove sufficient rehabilitation and good character to justify the granting of the petition.

(r) A licensee or applicant for a license may request a transfer of a criminal record exemption from one state licensed facility to another by providing the following documents to the Department:

(1) A signed Criminal Record Exemption Transfer Request, LIC 9188 (Rev. 9/03).

(2) A copy of the individual's:

(A) Driver's license, or

(B) Valid identification card issued by the Department of Motor Vehicles, or

(C) Valid photo identification issued by another state or the United States Government if the individual is not a California resident.

(3) Any other documentation required by the Department (e.g., LIC 508, Criminal Record Statement [Rev. 1/03] and job description).

(s) The Department may consider factors including, but not limited to, the following in determining whether or not to approve the transfer of an exemption from one facility to another:

(1) The basis on which the Department granted the exemption;

(2) The nature and frequency of client contact in the new position;

(3) The category of facility where the individual wishes to transfer;

(4) The type of clients in the facility where the individual wishes to transfer;

(5) Whether the exemption was appropriately evaluated and granted in accordance with existing exemption laws or regulations; or

(6) Whether the exemption meets current exemption laws or regulations.

(t) If the Department denies the individual's request to transfer a criminal record exemption, the Department shall provide the individual and the licensee with written notification that states the Department's decision and informs the affected individual of their right to an administrative hearing to contest the Department's decision.

(u) At the Department's discretion, an exemption may be rescinded if it is determined that:

(1) The exemption was granted in error or

(2) The exemption does not meet current exemption laws or regulations or

(3) The conviction for which an exemption was granted subsequently becomes non–exemptible by law.

(v) The Department may rescind an individual's criminal record exemption if the Department obtains evidence showing that the individual engaged in conduct which is inconsistent with the good character requirement of a criminal record exemption, as evidenced by factors including, but not limited to, the following:

(1) Violations of licensing laws or regulations;

(2) Any conduct by the individual that indicates that the individual may pose a risk to the health and safety of any individual who is or may be a client;

(3) Nondisclosure of a conviction or evidence of lack of rehabilitation that the individual failed to disclose to the Department, even if it occurred before the exemption was issued; or

(4) The individual is convicted of a subsequent crime.

(w) If the Department rescinds an exemption the Department shall:

(1) Notify the licensee and the affected individual in writing; and

(2) Initiate an administrative action.

(x) If the Department learns that an individual has been convicted of a crime after obtaining a criminal record clearance or exemption, the Department, at its sole discretion, may initiate an administrative action to protect the health and safety of clients.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81(b), 1596.871, 1596.885 and 1596.8897, Health and Safety Code; and *Gresher v. Anderson* (2005) 127 Cal. App. 4th 88.

HISTORY

1. New section filed 5–18–2000 as an emergency; operative 5–18–2000 (Register 2000, No. 20). Pursuant to Section 73 of Senate Bill 933, Chapter 311, Statutes of 1998 a Certificate of Compliance must be transmitted to OAL by 11–14–2000 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2000, No. 38).
3. Certificate of Compliance as to 5–18–2000 order transmitted to OAL 11–14–2000 and filed 12–19–2000 (Register 2000, No. 51).
4. Amendment of section and NOTE filed 7–14–2003 as an emergency; operative 7–16–2003 (Register 2003, No. 29). A Certificate of Compliance must be transmitted to OAL by 11–13–2003 or emergency language will be repealed by operation of law on the following day.
5. Amendment of section and NOTE refiled 11–12–2003 as an emergency; operative 11–12–2003 (Register 2003, No. 46). A Certificate of Compliance must be transmitted to OAL by 3–11–2004 or emergency language will be repealed by operation of law on the following day.
6. Amendment of section and NOTE refiled 3–11–2004 as an emergency; operative 3–11–2004 (Register 2004, No. 11). A Certificate of Compliance must be transmitted to OAL by 7–9–2004 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 3–11–2004 order, including further amendment of section, transmitted to OAL 7–9–2004 and filed 8–20–2004 (Register 2004, No. 34).
8. Amendment of section and NOTE filed 7–11–2006; operative 8–10–2006 (Register 2006, No. 28).

§ 101170.2. Child Abuse Central Index.

(a) Prior to granting a license for a child care center, the Department shall conduct a Child Abuse Central Index (CACI) review pursuant to Health and Safety Code Section 1596.877 and Penal Code Section 11170(b)(3). The Department shall check the CACI for the applicant(s) and all individuals subject to a criminal record review, pursuant to Health and Safety Code Section 1596.871(a) and shall have the authority to approve or deny a facility license, employment, or presence in the facility based on the results of the review.

(1) The applicant shall submit the Child Abuse Central Index checks (LIC 198A [3/99]) for all individual's required to be checked directly to the California Department of Justice at the same time that the individual's

fingerprints are submitted for a criminal background check as required by Section 101170(a).

(A) Individuals who have submitted the Child Abuse Central Index check (LIC 198A [3/99]) with fingerprints on or after January 1, 1999 need not submit a new check if the individual can transfer their criminal record clearance or exemption pursuant to Section 80019(e) or Section 80019.1(f).

(2) The Department shall investigate any reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. The Department shall not deny a license based upon a report from the CACI unless the Department substantiates the allegation of child abuse.

(b) Subsequent to licensure, all individuals subject to a criminal record review, pursuant to Health and Safety Code Section 1596.871, shall complete a Child Abuse Central Index check (LIC 198A [3/99]) prior to employment or initial presence in the child care facility.

(1) The licensee shall submit the Child Abuse Central Index checks (LIC 198A [Rev. 3/99]) directly to the California Department of Justice at the same time that the individual's fingerprints are submitted for a criminal background check as required by Section 101170(d).

(A) Individuals who have submitted the Child Abuse Central Index check (LIC 198A [3/99]) with fingerprints on or after January 1, 1999 need not submit a new check if the individual can transfer their criminal record clearance or exemption pursuant to Section 80019(e) or Section 80019.1(f).

(2) The Department shall check the Child Abuse Central Index (CACI) pursuant to Penal Code Section 11170(b)(3). The Department shall investigate any reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. The Department shall not deny a license or take any other administrative action based upon a report from the CACI unless the Department substantiates the allegation of child abuse.

(3) The Department shall investigate any subsequent reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. The Department shall not revoke a license or take any other administrative action based upon a report from the CACI unless the Department substantiates the allegation of child abuse.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81(b) and 1596.871, Health and Safety Code.

HISTORY

1. New section filed 5–18–2000 as an emergency; operative 5–18–2000 (Register 2000, No. 20). Pursuant to Section 73 of Senate Bill 933, Chapter 311, Statutes of 1998 a Certificate of Compliance must be transmitted to OAL by 11–14–2000 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2000, No. 38).
3. Certificate of Compliance as to 5–18–2000 order, including further amendment of subsection (a)(1), transmitted to OAL 11–14–2000 and filed 12–19–2000 (Register 2000, No. 51).
4. Amendment of subsection (b)(1) filed 7–14–2003 as an emergency; operative 7–16–2003 (Register 2003, No. 29). A Certificate of Compliance must be transmitted to OAL by 11–13–2003 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsection (b)(1) refiled 11–12–2003 as an emergency; operative 11–12–2003 (Register 2003, No. 46). A Certificate of Compliance must be transmitted to OAL by 3–11–2004 or emergency language will be repealed by operation of law on the following day.
6. Amendment of subsection (b)(1) refiled 3–11–2004 as an emergency; operative 3–11–2004 (Register 2004, No. 11). A Certificate of Compliance must be transmitted to OAL by 7–9–2004 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 3–11–2004 order transmitted to OAL 7–9–2004 and filed 8–20–2004 (Register 2004, No. 34).

§ 101171. Fire Clearance.

(a) All child care centers shall secure and maintain a fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal.

(1) The request for fire clearance shall be made through and maintained by the Department.

(b) The applicant shall notify the Department if the child care center plans to enroll children who are nonambulatory as defined in Section 101152n.(1), so that an appropriate fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal can be obtained prior to the acceptance of such children.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.809, 1596.81, 1596.95 and 1597.05, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment filed 12–30–87 as an emergency; operative 1–1–88 (Register 88, No. 2). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5–2–88.
3. Certificate of Compliance transmitted to OAL 4–28–88 and filed 5–31–88 (Register 88, No. 30).
4. Change without regulatory effect amending lettering and correcting cross-references filed 5–28–91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 28).
5. Amendment of section and NOTE filed 9–14–98; operative 11–1–98 (Register 98, No. 38).
6. Editorial correction of subsection (b) and NOTE (Register 2002, No. 39).

§ 101172. Water Supply Clearance.

(a) All child care centers where water for human consumption is from a private source shall meet the following requirements:

(1) As a condition of initial licensure, the applicant shall provide evidence of an onsite inspection of the source of the water and a bacteriological analysis that establishes the safety of the water. The inspection and the bacteriological analysis shall be conducted by the local health department, the California Department of Health Services or a licensed commercial laboratory.

(2) Subsequent to initial licensure, the licensee shall provide evidence of a bacteriological analysis of the private water supply as frequently as is necessary to ensure the safety of the children, but no less frequently than specified in the following table:

LICENSED CAPACITY	ANALYSIS REQUIRED	PERIODIC SUBSEQUENT ANALYSIS
6 or fewer	Initial licensing	Not required unless evidence supports the need for such analysis to protect children.
7 through 15	Initial licensing	Annually
16 through 24	Initial licensing	Semiannually
25 or more	Initial licensing	Quarterly

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.95 and 1597.05, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101173. Plan of Operation.

(a) Each licensee shall have and keep on file a current written, definitive plan of operation. A copy of the plan shall be submitted to the Department with the license application.

(b) The plan and related materials shall contain the following:

(1) Statement of purposes, and program methods and goals.

(2) Statement of admission policies and procedures.

(3) A copy of the admission agreement.

(4) Administrative organization, if applicable.

(5) Staffing plan, qualifications and duties, if applicable.

(6) Plan for in-service education of staff if required by regulations governing the specific child care center category.

(7) A sketch of the building(s) to be occupied, including a floor plan that describes the capacities of the buildings and the uses intended, the

room dimensions, and the rooms to be used for nonambulatory children; and a sketch of the grounds that shows buildings, driveways, fences, storage areas, pools, gardens, recreation areas and other space used by the children. All sketches shall show dimensions.

(8) Sample menus and a schedule for one calendar week indicating the time of day that meals and snacks are to be served.

(9) Transportation arrangements provided by the applicant/licensee for children who do not have independent arrangements.

(10) Rate–setting policy including, but not limited to, a policy on refunds.

(11) Consultant and community resources to be utilized by the child care center as part of its program.

(c) Any proposed changes in the plan of operation that affect services to children shall be subject to departmental approval prior to implementation and shall be reported as specified in Section 101212.

(d) The child care center shall operate in accordance with the terms specified in the plan of operation.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.95 and 1597.05, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).
3. Editorial correction adding inadvertently omitted subsection (b)(3) (Register 2002, No. 39).

§ 101174. Disaster and Mass Casualty Plan.

(a) Each licensee shall have a disaster and mass casualty plan of action. The plan shall be in writing and shall be readily available.

(b) The plan shall be subject to review by the Department and shall include:

(1) Designation of administrative authority and staff assignments.

(2) Contingency plans for action during fires, floods and earthquakes including, but not limited to, the following:

(A) Fire safety plan.

(B) Means of exiting.

(C) Transportation arrangements.

(D) Relocation sites that are equipped to provide safe temporary accommodations for children.

(E) Supervision of children during evacuation or relocation, and contact after relocation to ensure that relocation has been completed as planned.

(F) Means of contacting local agencies, including but not limited to the fire department, law enforcement agencies, and civil defense and other disaster authorities.

(3) Any special methods and procedures necessary for the evacuation and relocation of nonambulatory children.

(c) The licensee shall instruct all children, age and abilities permitting, and all child care personnel, including volunteers, in their duties and responsibilities under the plan.

(d) Disaster drills shall be conducted at least every six months.

(1) Completion of such drills shall not require travel away from the child care center grounds or contact with local disaster agencies.

(2) The drills shall be documented. This documentation shall be kept in the child care center for at least one year.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.95 and 1597.05, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101175. Waivers and Exceptions for Program Flexibility.

(a) Unless the licensee receives prior written departmental approval for a waiver or an exception as specified in (b) below, the licensee shall maintain continuous compliance with all licensing regulations.

(b) The Department has the authority to approve the use of alternate concepts, programs, services, procedures, techniques, equipment, space, personnel qualifications or staffing ratios, or the conduct of experimental or demonstration projects, under the following circumstances:

(1) Such alternatives shall be carried out with provisions for safe and adequate services, and shall in no instance be detrimental to the health and safety of any child in care.

(2) The applicant or licensee shall submit to the Department a written request for a waiver or an exception and substantiating evidence supporting the request.

(3) Within 30 days of the receipt of a request for a waiver or an exception, the Department shall notify the applicant or licensee in writing of the approval or denial of the request, or of the need for additional information to substantiate the request.

(A) The licensee shall maintain and make available for review, at the child care center, a copy of the written approval or denial.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment of section heading and section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101178. Application Review.

(a) If the applicant has not submitted all materials specified in Section 101169 within 90 days of the Department's receipt of the application, the Department shall notify the applicant in writing that the application is incomplete. This notice shall describe the materials that the applicant must submit to complete the application.

(1) If the applicant does not complete the application within 30 days after such notice, the application shall be deemed withdrawn provided that the Department has not denied or taken action to deny the application.

(A) The above requirement shall not apply to child care centers under construction.

(b) The Department shall cease review of any application under the conditions specified in Health and Safety Code Section 1596.851.

(2) The circumstances and conditions under which the Department may continue to review a previously denied application shall include, but not be limited to, the following:

(A) A fire clearance previously denied but now approved;

(B) An administrator who previously did not meet the minimum qualifications but now does; or

(C) A person with a criminal record previously associated with the center, which was the basis for license denial, but who is now no longer associated with the center.

(3) This review shall not constitute approval of the application.

(4) If the Department ceases review of an application, the application shall be returned to the applicant. The applicant shall be responsible for requesting the Department to resume reviewing the application pursuant to Health and Safety Code Section 1596.851.

(c) The application fee is nonrefundable.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.83, 1596.851 and 1596.95, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) filed 2–5–88; operative 3–6–88 (Register 88, No. 8).
2. Amendment of subsection (b) and adoption of NOTE filed 10–9–91; operative 11–8–91 (Register 92, No. 8).
3. Amendment of section heading and section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).
4. Change without regulatory effect amending subsection (c) filed 6–15–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 24).

§ 101179. Capacity Determination.

(a) A license shall be issued for a specific capacity, which shall be the maximum number of children that can be cared for at any given time. The Department may issue a license for fewer children than requested.

(b) The number of children for which the child care center is licensed to provide care and supervision shall be determined on the basis of the Department's application review, which shall take into consideration the following:

(1) The fire clearance specified in Section 101171.

(2) The licensee's/administrator's ability to comply with applicable laws and regulations.

(3) Physical features of the child care center, including available space, that are necessary to comply with this chapter.

(4) Number of available staff to meet the care and supervision needs of the children.

(5) Any restrictions pertaining to the specific category of child care center.

(c) When the license is issued for fewer children than requested, the licensee shall be notified in writing of the reasons for the limitation and of the licensee's rights to appeal the decision as specified in Section 101205.

(d) The Department has the authority to decrease existing licensed capacity with the licensee's agreement, when there is a change in any of the factors specified in (b) above.

(1) If the licensee does not agree to the decrease in capacity, the Department has the authority to initiate revocation action as specified in Section 101206.

(e) The Department is authorized to restrict care to specific individuals.

(1) If care and supervision are limited to specific individuals, the Department shall specify the names of the individuals in a letter to the licensee.

(2) Except where the limitation is requested by the licensee, the licensee shall be notified in writing of the reasons for such limitation and of the licensee's right to appeal the decision as specified in Section 101205.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101180. Withdrawal of Application.

(a) An applicant may withdraw an application for a license. The withdrawal of the application shall be in writing.

(1) The fee for processing the application shall be forfeited.

(b) As specified in Health and Safety Code Section 1596.854, the Department has the authority to take action against an applicant even if the applicant has withdrawn an application for a license.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.803 and 1596.854, Health and Safety Code.

HISTORY

1. Amendment of section and NOTE filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101181. Provisional License.

(a) The Department has the authority to issue a provisional license pursuant to Health and Safety Code Sections 1596.84 and 1596.96 provided the child care center is in substantial compliance with applicable laws and regulations, as defined in Section 101152s.(4), and has submitted a completed application as specified in Section 101152c.(8).

(b) The Department shall not issue a provisional license if a corporate applicant's board of directors, executive director and officer are ineligible for licensure, as specified in Health and Safety Code Section 1596.952(b).

(c) The Department has the authority to issue a provisional license for a maximum of 90 days to otherwise qualified applicants who are not in compliance with the requirements for health and safety training as specified in Health and Safety Code Section 1596.866.

(d) During the provisional license period, if the Department discovers any deficiencies that threaten the physical health, mental health, safety or welfare of the children, the Department has the authority to institute administrative action or civil proceedings, or to refer the case for criminal prosecution.

(e) A provisional license terminates on the date specified on the provisional license or upon denial of the application, whichever is earlier.

(1) Health and Safety Code Section 1596.84 specified how long and under what circumstances a provisional license may last.

(f) If the Department determines after its review specified in Section 101178 that the provisional licensee does not meet licensing requirements, the application shall be denied as specified in Section 101205; the provisional license shall immediately terminate; and operation shall immediately cease.

(g) If the Department denies the application for a license, the applicant may appeal the denial as provided in Section 101205. Until the Director adopts a decision on the denial action, the child care center is unlicensed.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81(b), 1596.84, 1596.866, 1596.952(b) and 1596.96, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment of section and NOTE filed 9–14–98; operative 11–1–98 (Register 98, No. 38).
3. New subsection (b), subsection relettering and amendment of NOTE filed 10–4–2000; operative 11–3–2000 (Register 2000, No. 40).

§ 101182. Issuance/Term of a License.

(a) The Department shall issue a license to an applicant in accordance with the provisions of Health and Safety Code Section 1597.13 after a completed application has been compiled and upon determination that all licensing requirements have been met.

(2) A separate license shall be issued for each component of a combination center.

(3) If the application is denied, the notice of denial shall include the information specified in Section 101205.

(b) Issuance of a license shall constitute written notice that the application is complete and has been granted.

(c) No limitation shall be imposed on the licensee or printed on the license solely because a licensee is a parent who has administered or will continue to administer corporal punishment not constituting child abuse, as defined in Penal Code Section 11165(g) or Health and Safety Code Section 1531.5(c), on his/her own child(ren).

(d) Except for provisional licenses as provided in Section 101181, a license remains in effect until it is:

(1) Forfeited or surrendered as specified in Sections 101186 through 101187 and in Health and Safety Code Section 1596.858.

(2) Suspended or revoked as specified in Section 101206.

(e) As a condition of licensure, child care personnel shall complete health and safety training pursuant to Health and Safety Code Section 1596.866.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.858, 1596.866, 1596.95, 1596.96 and 1596.97, Health and Safety Code.

HISTORY

1. Amendment of subsections (a) and (b) filed 2–5–88; operative 3–6–88 (Register 88, No. 8).
2. Amendment of section heading, section and NOTE filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101184. Application for Renewal of a License.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1596.95, Health and Safety Code.

HISTORY

1. Repealer filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101185. Submission of New Application.

(a) A licensee shall file a new Application Booklet (LIC 281A [12/96]) and supporting documents as specified in Section 101169 whenever there is a proposed change of any of the following types:

(1) Child care center category.

(A) Notwithstanding (a) and (a)(1) above, a licensee wishing to add a toddler component to its existing preschool or infant care program shall submit an amended application as specified in Section 101169(a)(1)(A). The toddler program component is considered an extension of the preschool or infant care license.

(2) Sale or transfer of the majority of stock.

(3) Separating from a parent company.

(4) Merger with another company.

(5) Change of licensee.

(b) When a licensee proposes a change in capacity, a change in the number of nonambulatory children or a change in location, the licensee may, in lieu of filing an entirely new LIC 281A (12/96) and supporting documents as specified in Section 101169, transfer documents from an existing application to a new application. In such a case, the new application documents must include:

(1) An Application for a Child Day Care Center License (LIC 200A [12/92]).

(2) A fire clearance, if necessary.

(3) An update of existing application documents affected by the change, as determined by the Department.

(d) A new LIC 281A (12/96) and supporting documents as specified in Section 101169 shall be filed whenever an applicant fails to complete a new application within the time limit required by Section 101178(a) if the applicant chooses to continue the application process.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.955 and 1596.956, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. New subsection (a)(3)(A) and amendment of NOTE filed 8–22–94; operative 9–21–94 (Register 94, No. 34).
3. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101186. Conditions for Forfeiture of a Child Care Center License.

(a) Conditions for forfeiture of a child care center license shall be as specified in Health and Safety Code Section 1596.858.

(2) "Licensee abandons the facility [child care center]" shall mean either of the following:

(A) The licensee informs the Department that the licensee no longer accepts responsibility for the child care center; or

(B) The Department is unable to determine the licensee's whereabouts after the following:

1. The Department requests information about the licensee's whereabouts from the child care center staff, if any staff can be contacted; and

2. The Department has made at least one phone call per day to the licensee's last telephone number of record for five consecutive workdays with no response; and

3. The Department has sent a certified letter requesting the licensee to contact the Department to the licensee's last mailing address of record with no response within seven calendar days.

(b) If the licensee dies, an adult relative who has control of the property may operate a previously licensed child care center under an Emergency Approval to Operate (EAO) (LIC 9117 [4/93]) provided the following conditions are met:

(1) The relative, or an adult acting on the relative's behalf, notifies the Department by telephone during the first working day after the licensee's death that the relative intends to operate the child care center.

(2) The relative files with the Department within five calendar days of the licensee's death an Application for a Child Day Care Center License (LIC 200A [12/92]) and evidence of the licensee's death as specified in Section 101152e.(4).

(A) Notwithstanding the instructions on the LIC 200A (12/92), the Department shall permit the relative to submit only the information on the front side of the LIC 200A (12/92).

(3) The relative files his/her fingerprint cards with the Department of Justice within five calendar days of the licensee's death.

(c) If the adult relative complies with (b)(1) and (b)(2) above, he/she shall not be considered to be operating an unlicensed child care center pending the Department's decision on whether to approve a provisional license.

(d) The Department shall make a decision within 60 days after the application is submitted on whether to issue a provisional license pursuant to Section *101181*.

(1) A provisional license shall be granted only if the Department is satisfied that the conditions specified in (b) above and Section 101181 have been met and that the health and safety of the children attending the child care center will not be jeopardized.

NOTE: Authority cited: Sections 1596.81 and 1596.858(e), Health and Safety Code. Reference: Sections 1596.845, 1596.858 and 1596.858(e), Health and Safety Code.

HISTORY

1. New section filed 10–9–91; operative 11–8–91 (Register 92, No. 8).
2. New subsections (b)–(d)(1) and amendment of NOTE filed 6–15–93; operative 7–15–93 (Register 93, No. 25).
3. Editorial correction of printing errors in subsections (a) and (a)(2)(B)2. (Register 93, No. 25).
4. Amendmentof section heading and section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101187. Licensing Fees.

(a) An applicant or licensee shall be charged fees as specified in Health and Safety Code Section 1596.803.

(b) When a licensee moves a child care center from one location to another, the relocation fee shall be as specified in Health and Safety Code Section 1596.803(b)(1)(A).

(1) To qualify for the relocation fee, the following shall apply:

(A) The licensee has notified the Department before actually relocating the child care center.

(B) The child care center licensing category remains the same.

(C) The fee is based on the capacity requested for the new location.

(c) The fees are nonrefundable.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.803, Health and Safety Code.

HISTORY

1. New section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).
2. Change without regulatory effect amending section heading, section and NOTE filed 6–15–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 24).

§ 101191. Denial of Initial License.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81, 1596.856, 1596.95 and 1597.05, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment of subsection (a) filed 2–5–88; operative 3–6–88 (Register 88, No. 8).
3. Amendment of subsection (a) filed 8–17–88; operative 9–16–88 (Register 88, No. 34).
4. Editorial correction of printing error restoring subsection (a)(1) (Register 91, No. 32).
5. Editorial correction of subsection (a)(1) (Register 95, No. 44).
6. Renumbering of former article 4 to article 5 and renumbering of former section 101191 to section 101205 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

Article 4. Enforcement Provisions

§ 101192. Denial of a Renewal License.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81(b), 1596.856, 1596.95 and 1597.05, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Change without regulatory effect amending lettering and correcting cross–references filed 5–28–91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 28).
3. Renumbering of former article 5 to article 4 and repealer of section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101193. Deficiencies in Compliance.

(a) If during a licensing evaluation the evaluator determines that a deficiency exists, the evaluator shall issue a notice of deficiency unless the deficiency is not serious and is corrected during the visit.

(b) Prior to completion of an evaluation or other licensing visit, the person in charge of the child care center shall meet with the evaluator to discuss any deficiencies noted, to jointly develop a plan for correcting each deficiency, and to acknowledge receipt of the notice of deficiency.

(c) The evaluator shall, at the completion of the visit, personally deliver the notice of deficiency to the licensee or the person in charge of the

child care center. If the licensee is not present, the evaluator shall also mail a copy of the notice to the licensee.

(1) If the person in charge of the child care center refuses to accept the notice, the evaluator shall make a note of the refusal on the notice and leave a copy of the notice at the center. The evaluator shall also mail a copy of the notice to the licensee.

(d) The notice of deficiency shall be in writing and shall include the following:

(1) A citation of the law or regulation that has been violated.

(2) A description of the deficiency stating the manner in which the licensee failed to comply with a specified law or regulation and, if applicable, the particular place or area of the child care center in which the deficiency occurred.

(3) The plan developed, as specified in (b) above, for correcting each deficiency.

(4) A date by which each deficiency shall be corrected.

(A) In determining the date for correcting a deficiency, the evaluator shall consider the following factors:

1. The potential hazard presented by the deficiency.

2. The number of children affected.

3. The availability of equipment or personnel necessary to correct the deficiency.

4. The estimated time for delivery and/or installation of necessary equipment.

(B) The date for correcting a deficiency shall not be more than 30 calendar days following service of the notice of deficiency unless the evaluator determines that the deficiency cannot be completely corrected in 30 calendar days.

(C) If the date for correcting the deficiency is more than 30 calendar days following service of the notice of deficiency, the notice shall specify the corrective actions that must be taken within 30 calendar days to begin correction.

(D) If civil penalties are assessed, the evaluator shall require correction of the deficiency within 24 hours and shall specify on the notice of deficiency the date by which the correction must be made.

(5) The amount of the civil penalty assessed and the date the penalty begins.

(6) The address and telephone number of the Department's office responsible for reviewing notices of deficiencies for the area in which the child care center is located.

NOTE: Authority cited: Sections 1596.81 and 1596.99, Health and Safety Code. Reference: Sections 1596.81(b), 1596.98 and 1596.99, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).

2. Renumbering of former section 101193 to section 101206 and renumbering and amendment of former section 101203 to section 101193 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101194. Follow–up Visits to Determine Compliance.

(a) A follow–up visit shall be conducted to determine compliance with the plan of correction specified in the notice of deficiency.

(1) A follow–up visit shall be conducted within 10 working days following the date(s) of correction specified in the notice of deficiency unless the licensee has demonstrated that the deficiency was corrected as required.

(2) No penalty shall be assessed unless a follow–up visit is conducted.

(b) If a follow–up visit indicates that a deficiency was not corrected on or before the date specified in the notice of deficiency, the evaluator shall issue a notice of penalty.

(c) A notice of penalty shall be in writing and shall include:

(1) The amount of the penalty assessed and the date the payment is due.

(2) The name and address of the agency responsible for collecting the penalty.

(d) When an immediate penalty has been assessed pursuant to sections 101195(c), (d) and (e), and correction is made when the evaluator is present, a follow–up visit is not required.

NOTE: Authority cited: Sections 1596.81 and 1596.99, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.852, 1596.853, 1596.98 and 1596.99, Health and Safety Code.

HISTORY

1. Renumbering of former section 101194 to section 101207 and renumbering and amendment of former section 101204 to section 101194 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101195. Penalties.

(a) A penalty of $50 per day, per cited violation, shall be assessed for serious deficiencies that are not corrected by the date specified in the notice of deficiency, up to a maximum of $150 per day.

(b) Notwithstanding Section 101195(a) above, an immediate penalty of $100 per cited violation per day for a maximum of five (5) days shall be assessed if any individual required to be fingerprinted under Health and Safety Code Section 1596.871(b) has not obtained a California clearance or criminal record exemption, requested a transfer of a criminal record clearance or requested and be approved for a transfer of an exemption as specified in Section 101170(e) prior to working, residing or volunteering in the facility.

(1) Subsequent violations within a twelve (12) month period will result in a civil penalty of one hundred dollars ($100) per violation per day for a maximum of thirty (30) days.

(2) The Department may assess civil penalties for continued violations as permitted by Health and Safety Code Section 1596.99.

(3) Progressive civil penalties specified in Sections 101195(d) and (e) below shall not apply.

(c) Notwithstanding (a) above, an immediate penalty of $150 per day shall be assessed if a child becomes sick, is injured or dies as a result of a deficiency.

(d) When a child care center is cited for a deficiency and violates the same regulation subsection within a 12–month period, the child care center shall be cited and an immediate penalty of $150 per cited violation shall be assessed for one day only. Thereafter, a penalty of $50 per day, per cited violation, shall be assessed until the deficiency is corrected.

(e) When a child care center that was cited for a deficiency subject to the immediate penalty assessment specified in Section 101195(d) above violates the same regulation subsection within a 12–month period of the last violation, the child care center shall be cited and an immediate penalty of $150 per cited violation shall be assessed for one day only. Thereafter, a penalty of $150 per day, per cited violation, shall be assessed until the deficiency is corrected.

(1) For purposes of Sections 101195(d) and (e) above, a regulation subsection is the regulation denoted by a lower–case letter after the main regulation number.

(f) If any deficiency is not corrected by the date specified in the notice of deficiency, a penalty shall be assessed for the notice of deficiency, a penalty shall be assessed for each day following that date until compliance has been demonstrated.

(1) Immediate penalty assessment as specified in Sections 101195(c), (d) and (e) shall begin on the day the deficiency is cited.

(g) If a licensee or his/her representative reports to the Department that a deficiency has been corrected, the penalty shall cease as of the day the Department receives either verbal or written notification that the correction was made.

(1) If the evaluator determines the deficiency was not corrected as reported, civil penalties shall continue to accrue from the date of the original citation.

(2) If it can be verified that the correction was made prior to the date of notification, the penalty shall cease as of that earlier date.

(h) If necessary, a site visit shall be made immediately or within five working days to confirm that the deficiency has been corrected.

(i) If an immediate civil penalty is assessed and the deficiency is corrected on the same day, the penalty shall still be assessed for that day.

(j) Unless otherwise ordered by the Department all penalties are due and payable upon receipt of the notice for payment, and shall be paid only by check or money order made payable to the agency indicated in the notice.

(k) The Department has the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (j) above.

NOTE: Authority cited: Sections 1596.81 and 1596.893(b), Health and Safety Code. Reference: Sections 1596.81(b), 1596.871, 1596.893, 1596.98 and 1596.99, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Renumbering of former section 101195 to new section 101200 and renumbering and amendment of former section 101205 to section 101195 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).
3. Amendment of section and NOTE filed 7–27–2001; operative 8–26–2001 (Register 2001, No. 30).
4. Editorial correction adding inadvertently omitted subsection (g)(2) (Register 2002, No. 39).
5. Amendment of subsection (b), new subsections (b)(1)–(b)(1)(A) and subsection renumbering filed 7–14–2003 as an emergency; operative 7–16–2003 (Register 2003, No. 29). A Certificate of Compliance must be transmitted to OAL by 11–13–2003 or emergency language will be repealed by operation of law on the following day.
6. Amendment of subsection (b), new subsections (b)(1)–(b)(1)(A) and subsection renumbering refiled 11–12–2003 as an emergency; operative 11–12–2003 (Register 2003, No. 46). A Certificate of Compliance must be transmitted to OAL by 3–11–2004 or emergency language will be repealed by operation of law on the following day.
7. Amendment of subsection (b), new subsections (b)(1)–(b)(1)(A) and subsection renumbering refiled 3–11–2004 as an emergency; operative 3–11–2004 (Register 2004, No. 11). A Certificate of Compliance must be transmitted to OAL by 7–9–2004 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 3–11–2004 order, including further amendment of subsections (b) and (b)(1) and repealer of subsection (b)(1)(A), transmitted to OAL 7–9–2004 and filed 8–20–2004 (Register 2004, No. 34).
9. Amendment of subsection (b), new subsection (b)(1), subsection renumbering, amendment of newly designated subsection (b)(2) and amendment of NOTE filed 7–11–2006; operative 8–10–2006 (Register 2006, No. 28).

§ 101196. Review of Licensing Decisions.

(a) Any person may request a review of a licensing decision against him/her within 10 working days of receipt of the written decision unless an administrative action pursuant to the California Administrative Procedure Act has commenced against the person.

(1) "Licensing decision" means a decision that applies to notices of deficiency, civil penalties, and waivers and exceptions.

(2) If the review is of a deficiency that has not been corrected, civil penalties continue to accrue during the review process.

(b) The review specified in (a) above shall be conducted by a higher–level staff person than the person who made the licensing decision and issued the related notice of deficiency, civil penalty, or waiver or exception.

(c) The reviewer may uphold, amend or dismiss the licensing decision; or may extend the date specified for the correction of a deficiency.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1596.842, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment of subsection (a) filed 12–21–90; operative 1–20–91 (Register 91, No. 7).
3. Renumbering of former section 101196 to new section 101201 and renumbering of former section 101206, including amendment of section heading, section and NOTE, to section 101196 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101197. Exemption from Civil Penalties.

(a) Civil penalties shall not be assessed against any governmental entity, including a state or city, holding a child care center license.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 101207 to new section 101197 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101198. Unlicensed Facility Penalties.

(a) A penalty of $200 per day shall be assessed for the operation of an unlicensed child care center under either of the following conditions:

(1) The operator has not submitted a completed application for licensure within 15 calendar days of issuance of a Notice of Operation in Violation of Law pursuant to Section 101157, and continues to operate.

(A) For purposes of this section, an application is deemed completed if it includes the information required in Section 101169.

(B) The completed application is deemed to be submitted when received by the Department.

(2) Unlicensed operation continues after denial of the initial application.

(A) Notwithstanding any appeal action, child care center operation must cease within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.

(b) The $200 per day penalty shall be assessed for the continued operation of an unlicensed child care center as follows:

(1) On the 16th calendar day after the operator has been issued the Notice of Operation in Violation of Law and has not submitted a completed application as required.

(A) The $200 per day penalty shall continue until the operator ceases operation or submits a completed application pursuant to Section 101198(a)(1)(A) and (B).

(2) On the 10th calendar day after the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.

(A) The $200 per day penalty shall continue until the operator ceases operation.

(c) If the unlicensed operator or his/her representative reports to the Department that unlicensed operation has ceased, the penalty shall cease as of the day the Department receives the notification.

(1) A site visit shall be made immediately or within five working days to verify that the unlicensed child care center operation has ceased.

(2) Notwithstanding (c) above, if the unlicensed child care center operation has not ceased, penalties shall continue to accrue without interruption from the date of initial penalty assessment.

(d) All penalties shall be due and payable upon receipt of the Notice for Payment from the Department, and shall be paid by check or money order made payable to the Department as indicated in the notice.

(e) The Department has the authority to file a claim in any court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (d) above.

(g) A person assessed civil penalties may appeal the penalty under Section 101196.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.80, 1596.891 and 1596.892, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 101209 to new section 101198 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101198.1. Denial or Revocation of License for Failure to Pay Civil Penalties.

(a) The licensee shall be responsible for paying civil penalties.

(1) Unless otherwise provided, the transfer, surrender, forfeiture or revocation of a license shall not affect the licensee's responsibility for paying any civil penalties accrued while the license was in effect.

(b) The Department shall have the authority to deny or revoke any license for failure to pay civil penalty assessments.

(1) The Department shall have the authority to approve payment arrangements acceptable to the Department.

(2) The Department shall have the authority to approve the form of payment.

(3) The licensee's failure to pay civil penalty assessments pursuant to a payment plan approved by the Department may result in the denial or revocation of any license, and/or any other appropriate action.

(c) Any denial or revocation of the license for failure to pay civil penalties may be appealed as provided by Health and Safety Code Section 1596.887.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81, 1596.871, 1596.887, 1596.98 and 1596.99, Health and Safety Code.

HISTORY

1. New section filed 7-27-2001; operative 8-26-2001 (Register 2001, No. 30).

§ 101200. Inspection Authority of the Department.

(a) The Department has the inspection authority specified in Health and Safety Code Sections 1596.852, 1596.853 and 1596.8535.

(b) The Department has the authority to interview children or staff without prior consent.

(1) The licensee shall ensure that provisions are made for private interviews with any children or staff members.

(c) The Department has the authority to inspect, audit, and copy child or child care center records upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the requirements in Sections 101217(c) and 101221(d).

(1) The licensee shall ensure that provisions are made for the examination of all records relating to the operation of the child care center.

(d) The Department has the authority to observe the physical condition of the child(ren), including conditions that could indicate abuse, neglect or inappropriate placement.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.852, 1596.853 and 1596.8535, Health and Safety Code.

HISTORY

1. Renumbering of former section 101195, including amendment of section heading and section, to new section 101200 filed 9-14-98; operative 11-1-98 (Register 98, No. 38).
2. Amendment of section and NOTE filed 5-9-2005; operative 6-8-2005 (Register 2005, No. 19).

§ 101201. Evaluation Visits.

(a) Child care centers shall be evaluated as specified in Health and Safety Code Sections 1569.8535(a) [as referenced in Section 101200(a)], 1596.98, 1596.99, 1597.08 and 1597.09.

(b) The Department has the authority to make any number of other visits to a child care center in order to determine compliance with applicable laws and regulations.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81(b), 1596.98, 1596.99, 1597.08, 1597.09 and 1596.852, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 101196 to new section 101201 filed 9-14-98; operative 11-1-98 (Register 98, No. 38).
2. Editorial correction of section and NOTE (Register 2002, No. 39).
3. Amendment of subsection (a) and NOTE filed 5-9-2005; operative 6-8-2005 (Register 2005, No. 19).

§ 101202. Serious Deficiencies.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.852, 1596.853 and 1596.98, Health and Safety Code.

HISTORY

1. Renumbering of former article 5 to article 4 and repealer of section filed 9-14-98; operative 11-1-98 (Register 98, No. 38).

§ 101203. Deficiencies in Compliance.

NOTE: Authority cited: Sections 1596.81 and 1596.99, Health and Safety Code. Reference: Sections 1596.81(b), 1596.98 and 1596.99, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment of subsections (c) and (d) filed 12-21-90; operative 1-20-91 (Register 91, No. 7).
3. Editorial correction of printing error (Register 91, No. 17).
4. Renumbering of former section 101203 to section 101193 filed 9-14-98; operative 11-1-98 (Register 98, No. 38).

§ 101204. Follow-up Visits to Determine Compliance.

NOTE: Authority cited: Sections 1596.81 and 1596.99, Health and Safety Code. Reference: Sections 1596.852, 1596.853, 1596.98 and 1596.99, Health and Safety Code.

HISTORY

1. Amendment of subsection (d) filed 12-21-90; operative 1-20-91 (Register 91, No. 7).
2. Editorial correction of printing error (Register 91, No. 17).
4. Renumbering of former section 101204 to section 101194 filed 9-14-98; operative 11-1-98 (Register 98, No. 38).

Article 5. Administrative Actions

§ 101205. Denial of License.

(a) Except as specified in Section 101181, which provides for issuance of a provisional license based upon substantial compliance, the Department shall deny an application for a license if the applicant is not in compliance with applicable laws and regulations. The Department shall issue the denial in accordance with Health and Safety Code Section 1597.11.

(1) The Department shall deny an application if the applicant fails to pay any civil penalty assessments, unless payment arrangements acceptable to the Department have been made.

(2) The Department may deny an application for licensure or revoke a license if the applicant/licensee, staff and/or volunteers violate Health and Safety Code Section 1596.885.

(3) The Department shall deny an application for licensure for grounds specified in Health and Safety Code Section 1596.952(b).

(4) An application shall not be denied solely because the applicant is a parent who has administered or will continue to administer corporal punishment not constituting child abuse, as defined in Penal Code Section 11165(g) or Health and Safety Code Section 1531.5(c), on his/her own child(ren).

(b) If an application is denied, the Department shall inform the applicant of the denial in writing.

(1) The notice shall include the reasons for the denial. The notice shall also advise the applicant of the right to appeal as provided for by Health and Safety Code Section 1596.879.

(c) If the application for a license is denied, the application processing fee shall be forfeited.

(d) Notwithstanding any appeal action, the child care center is unlicensed and shall not operate pending adoption by the Director of a decision on the denial action.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81, 1596.856, 1596.885, 1596.891, 1596.95, 1596.952(b) and 1597.05, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Editorial correction of printing error (Register 91, No. 17).
3. Change without regulatory effect amending lettering and correcting cross-references filed 5-28-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 28).
4. Renumbering of former article 4 to article 5, renumbering of former section 101205 to section 101195, and renumbering and amendment of section heading and section of former section 101191 to section 101205 filed 9-14-98; operative 11-1-98 (Register 98, No. 38).
5. New subsection (a)(3), subsection renumbering and amendment of NOTE filed 10-4-2000; operative 11-3-2000 (Register 2000, No. 40).
6. Editorial correction of subsections (a) and (b)(1) (Register 2002, No. 39).

§ 101206. Revocation or Suspension of License.

(a) The Department has the authority to suspend or revoke a license on any of the grounds specified in Health and Safety Code Section 1596.885.

(b) The Department has the authority to revoke a license pursuant to Health and Safety Code Section 1596.866, which requires child care personnel as specified to complete health and safety training.

(c) Proceedings to hear a revocation action, or a revocation and temporary suspension action, shall be conducted pursuant to Health and Safety Code Sections 1596.886 and 1596.887.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81(b), 1596.866, 1596.885 and 1596.886, Health and Safety Code.

HISTORY

1. Renumbering of former section 101206 to section 101196 and renumbering and amendment of section and NOTE of former section 101193 to section 101206 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101207. Licensee/Applicant Complaints.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).

2. Renumbering of former section 101207 to new section 101197 and renumbering of former section 10194 to section 10207 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101208. Exclusions.

(a) The Department may prohibit an individual from serving as a member of the board of directors, executive director, or officer; being employed or allowed in a licensed facility, as specified in Health and Safety Code Sections 1596.8897 and 1596.8898.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.8897 and 1596.8898, Health and Safety Code.

HISTORY

1. New section filed 10–4–2000; operative 11–3–2000 (Register 2000, No. 40).

§ 101209. Unlicensed Facility Penalties.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.80, 1596.891 and 1596.892, Health and Safety Code.

HISTORY

1. New section filed 8–17–88; operative 9–16–88 (Register 88, No. 34).

[The next page is 1445.]

2. Renumbering of former section 101209 to new section 101198 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101210. Unlicensed Facility Administrative Appeal.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.80, 1596.891 and 1596.893, Health and Safety Code.

HISTORY

1. New section filed 8–17–88; operative 9–16–88 (Register 88, No. 34).
2. Repealer filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

Article 6. Continuing Requirements

§ 101212. Reporting Requirements.

(a) Each licensee or applicant shall furnish to the Department reports as required by the Department including, but not limited to, the following:

(b) The name of the child care center director, and any fully qualified teacher(s) designated to act in the child care center director's absence, shall be reported to the Department within 10 days of a change of child care center director or designee(s).

(1) Whenever a change in child care center director is reported, in addition to his/her name, the report shall include the following:

(A) Verification of the completion of the course work required in Section 101215.1(h). A photocopy of a college transcript, or a photocopy of a Child Development Site Supervisor Permit or a Child Development Program Director Permit, shall meet this requirement.

(B) Verification of successful completion of high school. A photocopy of a high school diploma or GED shall meet this requirement.

(C) A summary of the experience required in Section 101215.1(h).

(c) The licensee shall notify the Department in writing of his/her intent prior to making any structural changes that reduce the total amount of indoor or outdoor activity space. Such structural changes shall include, but not be limited to, room additions.

(d) Upon the occurrence during the operation of the child care center of any of the events specified in (d)(1) below, a report shall be made to the Department by telephone or fax within the Department's next working day and during its normal business hours. In addition, a written report containing the information specified in (d)(2) below shall be submitted to the Department within seven days following the occurrence of such event.

(1) Events reported shall include the following:

(A) Death of any child from any cause.

(B) Any injury to any child that requires medical treatment.

(C) Any unusual incident or child absence that threatens the physical or emotional health or safety of any child.

(D) Any suspected physical or psychological abuse of any child.

(E) Epidemic outbreaks.

(F) Poisonings.

(G) Catastrophes.

(H) Fires or explosions that occur in or on the premises.

(2) Information provided shall include the following:

(A) Child's name, age, sex and date of admission.

(B) Date and nature of event.

(C) Attending physician's name, findings, and treatment, if any.

(D) Disposition of the case.

(e) The items below shall be reported to the Department within 10 working days following their occurrence:

(1) Organizational changes specified in Sections 101185(a)(2) through (a)(5).

(2) Any change in the licensee's or applicant's mailing address.

(3) Any change of the chief executive officer of a corporation, of the general partner(s) of a partnership, or of the controlling partners in a limited liability corporation.

(A) Such notification shall include the new chief executive officer's or partner's name and address.

(B) Fingerprints shall be submitted as specified in Section 101170(d).

(4) Any changes in the plan of operation that affect services to children.

(f) The items specified in (d)(1)(A) through (H) above shall also be reported to the child's authorized representative.

(g) The items specified in (d)(1)(E) through (G) above shall also be reported to the local health officer when appropriate pursuant to the California Code of Regulations, Title 17, Section 2500.

(1) The licensee shall report to the local health officer all outbreaks or suspected outbreaks involving two or more children of any communicable disease listed in (g)(2)(A) below (including diseases, such as head lice, not listed in Title 17, Section 2500).

(h) The item specified in (d)(1)(H) shall also be reported immediately to the local fire authority. In areas not having organized fire services, a report shall be made to the State Fire Marshal within 24 hours.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment of section and NOTE filed 9–14–98; operative 11–1–98 (Register 98, No. 38).
3. Editorial correction of subsections (d) and (g)(1) (Register 2002, No. 39).
4. Amendment of subsection (e)(3)(B) filed 7–14–2003 as an emergency; operative 7–16–2003 (Register 2003, No. 29). A Certificate of Compliance must be transmitted to OAL by 11–13–2003 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsection (e)(3)(B) refiled 11–12–2003 as an emergency; operative 11–12–2003 (Register 2003, No. 46). A Certificate of Compliance must be transmitted to OAL by 3–11–2004 or emergency language will be repealed by operation of law on the following day.
6. Amendment of subsection (e)(3)(B) refiled 3–11–2004 as an emergency; operative 3–11–2004 (Register 2004, No. 11). A Certificate of Compliance must be transmitted to OAL by 7–9–2004 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 3–11–2004 order transmitted to OAL 7–9–2004 and filed 8–20–2004 (Register 2004, No. 34).

§ 101213. Finances.

(a) The licensee shall meet the following financial requirements:

(1) Develop and maintain a financial plan that ensures resources necessary to meet operating costs for the care and supervision of children.

(2) Maintain financial records.

(3) Submit financial reports to the Department when requested to do so by the Department in writing.

(A) The Department's request shall explain the need for the disclosure and shall include a due date for the licensee to submit the requested information.

(B) The Department has the authority to reject any financial report, and to request and examine additional information including interim financial statements. The Department will put its reason(s) for rejecting a report in writing.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101214. Accountability.

(a) The licensee, whether an individual or other entity, is accountable for the general supervision of the licensed child care center and for the establishment of policies concerning its operation.

(1) If the licensee is a corporation, the governing body shall be active and functioning in order to ensure such accountability.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101215. Administrator Qualifications and Duties.

(a) The administrator must be at least 18 years of age. The licensee, if an individual or any member of the governing board of the licensed corporation, may be the administrator provided that he/she meets the qualifications specified in this section and in applicable regulations elsewhere in this chapter.

(b) The administrator shall have the following qualifications:

(1) Knowledge of the requirements for providing the type of care and supervision children need, and the ability to communicate with such children.

(2) Knowledge of and ability to comply with applicable laws and regulations.

(3) Ability to maintain or supervise the maintenance of financial and other records.

(4) Ability to establish the center's policy, program and budget.

(5) Ability to recruit, employ, train, direct and evaluate qualified staff, and to terminate employment of staff.

(c) Each licensee shall make provision for continuing operation and carrying out of the administrator's responsibilities during any absence of the administrator.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101215.1. Child Care Center Director Qualifications and Duties.

(a) In addition to Section 101215, the following shall apply:

(b) All child care centers shall have a director.

(1) Only one director shall be required in a combination center.

(c) The child care center director shall be responsible for the operation of the center, for compliance with regulations, and for communications with the Department; and has the authority to acknowledge receipt of deficiency notices and to correct deficiencies that constitute immediate threats to children's health and safety.

(1) There shall be a clear written statement of the administrative responsibility and authority delegated to the child care center director.

(A) A copy of this written statement shall be given to the child care center director and shall be made available to the Department upon request.

(d) The child care center director, or the substitute director as specified in (f) below, shall be on the premises during the hours the center is in operation.

(1) The child care center director shall not accept outside employment that interferes with the duties specified in this chapter.

(e) A child care center that offers an evening and/or nighttime program shall employ a director for each such program, as well as for the day program.

(f) When the child care center director is absent from the center, arrangements shall be made for a fully qualified teacher as specified in Section 101216.1(c) to act as a substitute. This substitute child care center director shall be aware of center operations, including total enrollment; shall be trained in program operation; and shall be designated as an authorized person to correct operational deficiencies that constitute immediate threats to children's health and safety.

(1) If the child care center director is absent for more than 30 consecutive calendar days, the substitute director shall meet the qualifications of a director.

(g) A licensee who is responsible for two or more centers may serve as the child care center director of one of the centers provided that he/she meets the qualifications specified in (h) below, or may serve as the executive director of all of the centers provided that a qualified child care center director is employed for each individual center.

(h) Child care center directors shall have completed one of the following prior to employment:

(1) High school graduation or GED; completion, with passing grades, of 15 semester or equivalent quarter units as specified in (h)(1)(A) and (h)(1)(B) below at an accredited or approved college or university; and at least four years of teaching experience in a licensed child care center or comparable group child care program.

(A) Three of the 15 units required in (h)(1) above shall be in administration or staff relations.

(B) Twelve of the 15 units required in (h)(1) above shall include courses that cover the general areas of child growth and development, or human growth and development; child, family and community, or child and family; and program/curriculum.

(2) An associate of arts degree from an accredited or approved college or university with a major or emphasis in early childhood education or child development; and at least two years of teaching experience in a licensed child care center or comparable group child care program.

(A) Three semester or equivalent quarter units shall be in administration or staff relations.

(3) A bachelor's degree from an accredited or approved college or university with a major or emphasis in early childhood education or child development; and at least one year of teaching experience in a licensed child care center or comparable group child care program.

(A) Three semester or equivalent quarter units shall be in administration or staff relations.

(4) A Child Development Site Supervisor Permit or a Child Development Program Director Permit issued by the California Commission on Teacher Credentialing.

(i) Approved schools, colleges or universities, including correspondence courses offered by the same, means those approved/authorized by the U.S. Department of Education, Office of Postsecondary Education, or by the California Department of Consumer Affairs, Bureau for Private Postsecondary and Vocational Education.

(j) Accredited schools, colleges or universities, including correspondence courses offered by the same, means those accredited by any one of the following recognized accrediting agencies:

(1) Accrediting Commission, Distance Education and Training Council.

(2) Western Association of Schools and Colleges.

(3) Accrediting Bureau of Health Education Schools.

(4) Association of Independent Colleges and Schools.

(5) National Association of Trade and Technical Schools.

(k) Units earned through correspondence courses from approved or accredited schools, colleges or universities shall be accepted for meeting educational requirements as specified in (h) above.

(*l*) Each year of experience required in (h)(1), (h)(2) or (h)(3) above shall be verified as having been performed satisfactorily, at least three hours per day for a minimum of 100 days in a calendar year, as a teacher under the supervision of a person who would qualify as a director under this chapter.

(m) A child care center director shall complete 15 hours of health and safety training if necessary pursuant to Health and Safety Code Section 1596.866.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.866, 1596.87, 1597.05 and 1597.055, Health and Safety Code.

HISTORY

1. Renumbering of former section 101315 to new section 101215.1, including amendment of section heading, section and NOTE, filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101216. Personnel Requirements.

(a) Child care center personnel shall be competent to provide the services necessary to meet the individual needs of children in care and shall at all times be employed in numbers sufficient to meet those needs.

(b) The Department has the authority to require any licensee to provide additional staff whenever the Department determines and documents that additional staff are required for the provision of services necessary to meet the needs of children in care. The licensee shall be informed in writing of the reasons for the Department's determination. The following factors shall be taken into consideration in determining the need for additional staff:

(1) Needs of the children.

(2) Extent of the services provided by the center.

(3) Physical arrangements of the center.

(4) Existence of a state of emergency or disaster.

(c) The license may utilize volunteers provided that such volunteers are supervised and are not included in the center's staffing plan.

(d) The following child care center personnel shall be at least 18 years old:

(1) Persons who supervise employees and/or volunteers.

(2) Persons, including volunteers, who provide any element of care and supervision to children.

(e) All personnel shall be given on-the-job training in the areas listed below, or shall have related experience that demonstrates knowledge of and skill in those areas. Such training or experience shall be appropriate to the job assigned and shall be evidenced by safe and effective job performance.

(1) Principles of nutrition, food preparation and storage, and menu planning.

(2) Housekeeping and sanitation principles, including universal health precautions.

(3) Provision of child care and supervision, including communication.

(4) Assistance with prescribed medications that are self-administered.

(5) Recognition of early signs of illness and the need for professional assistance.

(6) Availability of community services and resources.

(f) At least one staff member who is trained in pediatric cardiopulmonary resuscitation and pediatric first aid pursuant to Health and Safety Code Section 1596.866 shall be present when children are at the child care center or offsite for center activities.

(g) All personnel, including the licensee, administrator and volunteers, shall be in good health and shall be physically and mentally capable of performing assigned tasks.

(1) Except as specified in (3) below, good physical health shall be verified by a health screening, including a test for tuberculosis, performed by or under the supervision of a physician not more than one year prior to or seven days after employment or licensure.

(2) Each person specified in (g) above shall have a health-screening report signed by the person performing the screening. This report shall indicate the following:

(A) The person's physical qualifications to perform the duties to be assigned.

(B) The presence of any health condition that would create a hazard to the person, children or other staff members.

(3) The good physical health of each volunteer who works in the center shall be verified by:

(A) A statement signed by each volunteer affirming that he/she is in good health.

(B) Results of a test for tuberculosis performed not more than one year prior to or seven days after initial presence in the center.

(h) Personnel that pose a threat to the health and safety of children shall be relieved of their duties.

(i) Prior to employment or initial presence in the child care center, all employees and volunteers subject to a criminal record review shall:

(1) Obtain a California clearance or a criminal record exemption as required by law or Department regulations or

(2) Request a transfer of a criminal record clearance as specified in Section 101170(f) or

(3) Request and be approved for a transfer of a criminal record exemption, as specified in Section 101170.1(r), unless, upon request for a transfer, the Department permits the individual to be employed, reside or be present at the facility.

(j) Personnel shall provide for the care and safety of children without physical or verbal abuse, exploitation or prejudice.

(k) The licensee or designated individual shall instruct all personnel to report observations or evidence of violations of any of the personal rights specified in Section 101223.

(l) All personnel shall be informed of their rights pursuant to Sections 1596.881 and 1596.882 of the Health and Safety Code.

(1) The licensee shall provide each employee with a Notice of Employee Rights (LIC 9052 [11/94]).

(A) Each employee shall be asked to sign and date the LIC 9052 (11/94) to acknowledge receipt of the form.

(B) A copy of the signed LIC 9052 (11/94) shall be kept in the employee's personnel record.

(C) If the employee refuses to sign the LIC 9052 (11/94), a dated notation to that effect shall be kept in the employee's personnel record.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.871, 1596.880, 1596.881 and 1596.882, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment of subsection (i) filed 6-5-87; operative 7-5-87 (Register 87, No. 25).
3. New subsection (m) filed 9-6-89; operative 10-6-89 (Register 89, No. 37).
4. Amendment of section and NOTE filed 9-14-98; operative 11-1-98 (Register 98, No. 38).
5. Amendment of subsection (i), repealer of subsections (i)(1)-(i)(2)(A) and new subsections (i)(1)-(3) filed 7-14-2003 as an emergency; operative 7-16-2003 (Register 2003, No. 29). A Certificate of Compliance must be transmitted to OAL by 11-13-2003 or emergency language will be repealed by operation of law on the following day.
6. Amendment of subsection (i), repealer of subsections (i)(1)-(i)(2)(A) and new subsections (i)(1)-(3) refiled 11-12-2003 as an emergency; operative 11-12-2003 (Register 2003, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-11-2004 or emergency language will be repealed by operation of law on the following day.
7. Amendment of subsection (i), repealer of subsections (i)(1)-(i)(2)(A) and new subsections (i)(1)-(3) refiled 3-11-2004 as an emergency; operative 3-11-2004 (Register 2004, No. 11). A Certificate of Compliance must be transmitted to OAL by 7-9-2004 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 3-11-2004 order, including further amendment of subsection (i)(1), transmitted to OAL 7-9-2004 and filed 8-20-2004 (Register 2004, No. 34).

§ 101216.1. Teacher Qualifications and Duties.

(a) In addition to Section 101216, the following shall apply:

(b) Prior to employment, a teacher shall meet the requirements of (b)(1) or (b)(2) below:

(1) A teacher shall have completed, with passing grades, at least six postsecondary semester or equivalent quarter units of the education requirement specified in (c)(1) below; or shall have obtained a Child Development Assistant Permit issued by the California Commission on Teacher Credentialing.

(A) After employment, a teacher hired under (b) above shall complete, with passing grades, at least two units each semester or quarter until the education requirement specified in (c)(1) below is met.

(2) A teacher shall meet the requirements of Health and Safety Code Section 1597.055.

(c) To be a fully qualified teacher, a teacher shall have one of the following:

(1) Twelve postsecondary semester or equivalent quarter units in early childhood education or child development completed, with passing grades, at an accredited or approved college or university; and at least six months of work experience in a licensed child care center or comparable group child care program.

(A) The units specified in (c)(1) above shall include courses that cover the general areas of child growth and development, or human growth and development; child, family and community, or child and family; and program/curriculum.

(B) Experience shall be verified as having been performed satisfactorily, at least three hours per day for a minimum of 50 days in a six-month period, as a paid or volunteer staff member under the supervision of a person who would qualify as a teacher or director under this chapter.

(2) A current and valid Child Development Associate (CDA) credential with the appropriate age-level endorsement issued by the CDA National Credentialing Program of the Council for Early Childhood Profes-

sional Recognition; and at least six months of on-the-job training and/or work experience in a licensed child care center or comparable group child care program.

(A) A CDA credential shall show the appropriate preschool or infant/toddler age-level endorsement to qualify an individual for employment in a preschool or infant care center.

(B) A CDA credential is valid for three years from the date of award. A renewal may be granted every five years thereafter upon approval by the CDA National Credentialing Program.

(C) Experience shall be verified as having been performed satisfactorily, at least three hours per day for a minimum of 50 days in a six-month period, as a paid or volunteer staff member under the supervision of a person who would qualify as a teacher or director under this chapter.

1. Individuals who possess a CDA credential may have also completed the required six months of work experience specified in (c)(2)(C) above. This work experience shall be verified to confirm that the experience requirement has been met.

(3) One of the following Child Development Permits issued by the California Commission on Teacher Credentialing:

(A) Child Development Associate Teacher Permit; or

(B) Child Development Teacher Permit; or

(C) Child Development Master Teacher Permit.

(d) Approved schools, colleges or universities, including correspondence courses offered by the same, means those approved/authorized by the U.S. Department of Education, Office of Postsecondary Education, or by the California Department of Consumer Affairs, Bureau for Private Postsecondary and Vocational Education.

(e) Accredited schools, colleges or universities, including correspondence courses offered by the same, means those accredited by any one of the following recognized accrediting agencies:

(1) Accrediting Commission, Distance Education and Training Council.

(2) Western Association of Schools and Colleges.

(3) Accrediting Bureau of Health Education Schools.

(4) Association of Independent Colleges and Schools.

(5) National Association of Trade and Technical Schools.

(f) Units earned through correspondence courses from approved or accredited schools, colleges or universities shall be accepted for meeting educational requirements as specified in (c) above.

(g) A photocopy of the teacher's Child Development Permit as specified in (c)(3) above, or a photocopy of the teacher's transcript(s) documenting successful completion of required course work, shall be maintained at the center.

(h) These education requirements shall not apply to teachers employed as teachers prior to May 1, 1970. A teacher who was employed prior to May 1, 1970, shall remain qualified provided that he/she has had no break in employment as a teacher in a child care center exceeding three consecutive years.

(i) A teacher shall complete 15 hours of health and safety training if necessary pursuant to Health and Safety Code Section 1596.866 and as specified in Section 101215.1(m)(1).

(j) Each teacher shall visually observe aides under his/her supervision whenever the aide is working with children, except as provided for in Sections 101216.2(e)(1) and 101230(c)(1).

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.866, 1596.87, 1597.05, 1597.055 and 1597.057, Health and Safety Code.

HISTORY

1. Renumbering of former section 101316.2 to new section 101216.1, including amendment of section and NOTE, filed 9-14-98; operative 11-1-98 (Register 98, No. 38).

§ 101216.2. Teacher Aide Qualifications and Duties.

(a) In addition to Section 101216, the following shall apply:

(b) Notwithstanding Section 101216(d), centers may use aides who are less than 18 years old provided they are either:

(1) High school graduates.

(2) Currently participating in an occupational program conducted by an accredited high school or college.

(c) Verification that an aide who is less than 18 years old meets the qualifications required in (b)(1) or (b)(2) above shall be obtained and kept at the center.

(d) An aide assisting a fully qualified teacher (as specified in Section 101216.1(c)) in the supervision of up to 18 preschool-age children pursuant to Section 101216.3 shall meet the following requirements:

(1) Completion of six postsecondary semester or equivalent quarter units in early childhood education or child development, or

(2) Completion of at least two postsecondary semester units or equivalent quarter units in early childhood education or child development each semester or quarter following initial employment, and

(3) Continuation in the educational program each semester or quarter until six units have been completed.

(e) An aide shall work only under the direct supervision of a teacher.

(1) An aide who is 18 years of age or older, and who meets the requirements of this section and Section 101216, may escort and/or assist children in going to the bathroom, and may supervise napping children as specified in Section 101230(c)(1), without being under the direct supervision of a teacher.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.87, 1597.05 and 1597.059, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 101316.3 to new section 101216.2 filed 9-14-98; operative 11-1-98 (Register 98, No. 38).

§ 101216.3. Teacher-Child Ratio.

(a) There shall be a ratio of one teacher visually observing and supervising no more than 12 children in attendance, except as specified in (b) and (c) below.

(1) The number of children in attendance shall not exceed licensed capacity.

(2) Whenever children are engaged in activities away from the center, no teacher shall be in charge of a group of more than 12 children.

(b) The licensee may use teacher aides in a teacher-child ratio of one teacher and one aide for every 15 children in attendance.

(1) A ratio of one fully qualified teacher (as specified in Section 101216.1(c)) and one aide for every 18 children in attendance in a preschool program is allowed when the aide meets the qualifications specified in Section 101216.2(d).

(A) This ratio does not apply to children enrolled in an infant care center or a school-age child care center.

(c) Child development programs funded by the California Department of Education and operating under Title 5 of the California Code of Regulations are not required to meet the teacher-child ratios specified in (a) and (b) above. Title 5 staffing ratios shall apply in such centers.

(d) The licensee may include the child care center director in the teacher-child ratio when the director is actually engaged in teaching a group of children.

(1) The licensee may include the substitute child care center director in the teacher-child ratio when the substitute director is actually engaged in teaching a group of children.

(e) Each licensee shall maintain an up-to-date list of qualified teacher substitutes as defined in Section 101152q.(1). Substitutes on this list shall be called immediately in case of emergency or illness to meet the teacher-child ratios required by this chapter.

(f) During nap periods the teacher-child ratio specified in Section 101230(c) shall apply.

(g) A teacher shall not be required to perform housekeeping or maintenance duties that prevent him/her from performing duties related to providing care and supervision to children.

(h) Persons employed for clerical, housekeeping and maintenance functions shall not be included as teachers in the teacher-child ratio.

(1) The licensee may use such persons as emergency substitutes for teachers while a qualified teacher substitute is being secured.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1597.05 and 1597.059, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 101316.5 to new section 101216.3 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).
2. Editorial correction of subsections (e) and (f) (Register 2002, No. 39).

§ 101216.4. Preschool Program with Toddler Component.

(a) Licensees serving preschool–age children may create a special program component for children between the ages of 18 months and 30 months. The provisions of Sections 101151 through 101239.2 shall apply for children over 24 months, except as specified in Sections 101216.4(a)(1) through (6). The provisions of Sections 101351 through 101439.1 shall apply for children between the ages of 18 and 24 months participating in a preschool toddler component, except as specified in Sections 101216.4(a)(1) through (6).

(1) Child care centers with an existing preschool program wishing to establish a toddler component shall submit an amended application and obtain approval from the Department.

(2) Children in a child care center between the ages of 18 months and 30 months may be placed in the toddler program. A child older than 30 months may participate in the toddler program with written permission from the child's authorized representative. No child in the toddler program shall be placed in the preschool program before the age of 30 months without written permission from the child's authorized representative.

(3) It shall be permissible for a child whose developmental needs require continuation in a toddler component to remain in the toddler component up to a maximum age of three years.

(4) A ratio of six children to each teacher shall be maintained for all children in attendance in the toddler program. An aide who is participating in on–the–job–training may be substituted for a teacher when directly supervised by a fully qualified teacher.

(5) The maximum group size, with two teachers, or one fully qualified teacher and one aide, shall not exceed 12 toddlers.

(6) The toddler program shall be conducted in areas physically separate from those used by older or younger children. Space planning and usage for the toddler component shall be governed by the provisions of Section 101438.3. Plans to alternate use of outdoor play space must be approved by the Department.

(A) Requirements for physical separation between children in the toddler component and older or younger children need not apply when a planned activity is being conducted.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Section 1596.955, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 101316.6 to new section 101216.4 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).
2. Editorial correction of subsection (a) (Register 2002, No. 39).

§ 101216.5. Staffing—Parent–Cooperative Centers.

(a) Parent–cooperative centers shall employ a full–time teacher in addition to the director and participating parents when the number of children reaches 25.

(b) There shall be at least one staff member or participating parent present for each five children in attendance.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 101316.7 to new section 101216.5 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101216.6. Staffing for Water Activities.

(a) There shall be at least one adult who has a valid water–safety certificate on file at the center present during water activities in or near any of the following bodies of water:

(1) Swimming pool.

(2) Any portable pool with sides so high that children using the pool cannot step out unassisted by a person or device (including a ladder).

(3) Potentially dangerous natural bodies of water including, but not limited to, oceans, lakes, rivers and streams.

(b) A ratio of not less than one adult, including teachers, to every six children, or fraction thereof, shall be maintained during water activities in or near any of the bodies of water specified in (a)(1) through (3) above.

(1) Lifeguards or personnel supervising anyone other than center children at the water activity site shall not be included in this ratio.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.87 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 101316.8 to new section 101216.6 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101217. Personnel Records.

(a) The licensee shall ensure that personnel records are maintained on the licensee, administrator and each employee. Each personnel record shall contain the following information:

(1) Employee's full name.

(2) Driver's license number if the employee is to transport children.

(3) Date of employment.

(4) A statement signed by the employee that he/she is at least 18 years of age.

(5) Current home address and phone number.

(6) Documentation of the educational background, training and/or experience specified in this chapter.

(7) Past experience, including types of employment and former employers.

(8) Duties of the employee.

(9) Termination date if no longer employed by the child care center.

(10) A signed and dated copy of a Notice — Employee Rights (LIC 9052 [3/03]).

(11) A health screening as specified in Section 101216(g).

(12) Tuberculosis test documents as specified in Section 101216(g).

(13) A signed statement regarding their criminal record history as required by Section 101170(d).

(14) Documentation of either a criminal record clearance or a criminal record exemption as required by Section 101170(e).

(b) Personnel records shall be maintained for all volunteers and shall contain the following:

(1) A health statement as specified in Section 101216(g).

(2) Tuberculosis test documents as specified in Section 101216(g)(3).

(3) For volunteers that are required to be fingerprinted pursuant to Section 101170:

(A) A signed statement regarding their criminal record history as required by Section 101170(d).

(B) Documentation of either a criminal record clearance or a criminal record exemption as required by Section 101170(e).

(c) All personnel records shall be available to the Department to inspect, audit, and copy upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the following requirements:

(1) Licensing representatives shall not remove the following current records for current personnel unless the same information is otherwise readily available in another document or format.

(A) Health–screening records and results of tuberculosis tests as specified in Section 101216(g).

(B) Documentation of completion of health and safety training as specified in Sections 101215.1(m), 101216(f), and 101216.1(i).

(C) Any other records containing current emergency or health–related information for current personnel.

(2) Prior to removing any records, a licensing representative shall prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.

(3) Licensing representatives shall return the records undamaged and in good order within three business days following the date the records were removed.

(d) All personnel records shall be maintained at the child care center and shall be available to the licensing agency for review.

(1) The licensee may keep such records in a central administrative location provided that they are readily available to the Department at the child care center site as specified in section 101217(c).

(e) In all cases, personnel records shall document the hours actually worked.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.880, 1596.881 and 1596.882, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. New subsection (a)(10) filed 9–6–89; operative 10–6–89 (Register 89, No. 37).
3. Editorial correction of NOTE (Register 89, No. 44).
4. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).
5. Editorial correction of subsection (a)(6) (Register 2002, No. 39).
6. Amendment filed 7–14–2003 as an emergency; operative 7–16–2003 (Register 2003, No. 29). A Certificate of Compliance must be transmitted to OAL by 11–13–2003 or emergency language will be repealed by operation of law on the following day.
7. Amendment refiled 11–12–2003 as an emergency; operative 11–12–2003 (Register 2003, No. 46). A Certificate of Compliance must be transmitted to OAL by 3–11–2004 or emergency language will be repealed by operation of law on the following day.
8. Amendment refiled 3–11–2004 as an emergency; operative 3–11–2004 (Register 2004, No. 11). A Certificate of Compliance must be transmitted to OAL by 7–9–2004 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 3–11–2004 order, including further amendment of subsections (a)(13)–(14) and (b)(3)(A)–(B), transmitted to OAL 7–9–2004 and filed 8–20–2004 (Register 2004, No. 34).
10. Amendment of subsections (a) and (a)(10), new subsections (c)–(c)(3), amendment of subsection (d)(1) and amendment of NOTE filed 5–9–2005; operative 6–8–2005 (Register 2005, No. 19).

§ 101218. Admission Policies.

(a) Every child care center shall have all admission policies in writing and available to the public. The policies shall coincide with the limitations stated on the license, and shall include, but not be limited to, the following:

(1) Written admission criteria designating those children whose needs can be met by the center's program and services.

(2) The ages of children who will be accepted.

(3) The program activities.

(4) The supplementary services provided, if any.

(5) Field–trip provisions, if any.

(6) Transportation arrangements, if any.

(7) Food–service provisions.

(8) Medical–assessment requirement.

(b) A licensee who provides care to a child with disabilities shall be able to meet the individual needs of the child.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 101319 to section 101218 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101218.1. Admission Procedures and Parental and Authorized Representative's Rights.

(a) In accordance with the child care center's individual program, policies and needs, the licensee shall develop, implement and maintain an admission procedure that enables the person in charge of admissions to:

(1) Determine that the child meets the child care center's admission criteria.

(2) Conduct one or more personal interviews with the child's parent or authorized representative that meets the following requirements:

(A) Enables the person responsible for admissions to understand the state of the child's health and physical and emotional development, and to assess whether the child care center can meet the child's needs.

(B) Provides the child's parent or authorized representative with information about the child care center that shall at least include the child care center's admission policies and procedures, activities, services, regulations, hours and days of operation, fees, procedures to be followed should the child become ill or injured while at the child care center, and procedures for conducting inspections for illness.

(3) Obtain all identifying information specified in Section 101221(b).

(4) Obtain all health information specified in Section 101220.

(b) At the time of acceptance of each child in care, the licensee shall inform each child's parent or authorized representative of his/her rights that include, but are not limited to, the following:

(1) To enter and inspect the child care center in accordance with Health and Safety Code Section 1596.857.

(2) To file a complaint against the licensee with the local licensing office in accordance with Health and Safety Code Section 1596.853.

(3) To review the child care center's public file kept by the local licensing office in accordance with Health and Safety Code Section 1596.859.

(4) To review at the child care center, reports of licensing visits and substantiated complaints against the licensee made during the last three years in accordance with Health and Safety Code Section 1596.859.

(5) To complain to the local licensing office and inspect the child care center without discrimination or retaliation in accordance with Health and Safety Code Section 1596.857.

(6) To request in writing that a parent not be allowed to visit a child or take a child from the child care center provided the custodial parent has shown a certified copy of a court order pursuant to Health and Safety Code Section 1596.857.

(7) To receive from the licensee upon request the name, address and telephone number of the local licensing office in accordance with Health and Safety Code Section 1596.874.

(8) To be informed by the licensee, upon request, of the name and type of association to the child care center for any adult who has been granted a criminal record exemption, and that the name of the person may also be obtained by contacting the local licensing office.

(c) The licensee shall post the PUB 393 (8/02), Child Care Center Notification of Parents' Rights Poster in a prominent, publicly accessible area in the child care center at all times.

(d) The licensee shall provide to the parent or authorized representative the LIC 995E (8/02), Caregiver Background Check Process form.

(e) At the time of acceptance of each child into care and for all children in care on August 7, 2002, the licensee shall give each parent or authorized representative a copy of the Notification of Parents' Rights (LIC 995 [8/02]) and the LIC 995E, Caregiver Background Check Process form.

(1) The licensee shall request the child's parent or authorized representative to sign and date the notice acknowledgement–of–receipt statement at the bottom of the LIC 995 (8/02). The bottom portion of this form must be kept in the child's file as proof that the parent or authorized representative has been notified of his or her rights by the child care center and received a copy of the LIC 995E, Caregiver Background Check Process form.

(2) Whenever a parent or authorized representative makes a request pursuant to Section 101218.1(b)(8), the child care center shall note, date, and initial the request in the child's file. The child care center shall request that the parent or authorized representative also initial the notation documenting the request.

(3) Failure by the licensee to comply with the requirements in Sections 101218.1(b)(8), (c), (d), (e), (e)(1), or (e)(2) shall subject the licensee to civil penalties pursuant to Section 101195.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.853, 1596.857, 1596.859, 1596.874, 1597.05 and 1597.07, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 101319.1 to section 101218.1 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).
2. Amendment of section heading, section and NOTE filed 8–7–2002 as an emergency; operative 8–7–2002 (Register 2002, No. 32). A Certificate of Compliance must be transmitted to OAL by 12–5–2002 or emergency language will be repealed by operation of law on the following day.

3. Amendment of section heading, section and NOTE refiled 12–3–2002 as an emergency; operative 12–5–2002 (Register 2002, No. 49). A Certificate of Compliance must be transmitted to OAL by 4–4–2003 or emergency language will be repealed by operation of law on the following day.

4. Certificate of Compliance as to 12–3–2002 order transmitted to OAL 4–1–2003 and filed 5–12–2003 (Register 2003, No. 20).

§ 101219. Admission Agreements.

(a) The licensee and the child's authorized representative shall jointly complete a current individual written admission agreement for the child. This documentation shall be maintained at the child care center and shall be available for review.

(b) Admission agreements shall specify the following:

(1) Basic services.

(2) Available optional services.

(3) Payment provisions, including the following:

(A) Basic rate.

(B) Optional services rates.

(C) Payor.

(D) Due date.

(E) Frequency of payment.

(4) Modification conditions, including the requirement that the child's authorized representative be given at least 30–calendar–days prior written notice of any basic rate change.

(A) Agreements involving children whose care is funded at government–prescribed rates may specify that the effective date of a government rate change shall be considered the effective date for basic service rate modifications and that no prior notice is necessary.

(5) Refund conditions.

(6) Right of the Department to perform the duties authorized in Sections 101200(b) and (c).

(7) Conditions under which the agreement may be terminated.

(c) The licensee, or his/her designee, and the child's authorized representative shall sign and date the child's admission agreement no later than seven calendar days following admission.

(d) Modifications to the original admission agreement shall be made whenever circumstances covered in the agreement change, and shall be dated and signed by the persons specified in (c) above.

(e) The licensee shall keep the original copy of the admission agreement and give a photocopy to the child's authorized representative.

(f) The licensee shall comply with all terms and conditions set forth in the admission agreement.

(g) The admission agreement shall be automatically terminated by the death of the child. No liability or debt shall accrue after the date of death.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).

2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101220. Child's Medical Assessments.

(a) Prior to, or within 30 calendar days following the enrollment of a child, the licensee shall obtain a written medical assessment of the child. This medical assessment enables the licensee to assess whether the center can provide necessary health–related services to the child.

(1) Such assessment shall be performed by, or under the supervision of, a licensed physician, and shall not be more than one year old when obtained.

(b) The medical assessment shall provide the following:

(1) A record of any infectious or contagious diseases that would preclude care of the child by the licensee.

(2) Results of a test for tuberculosis.

(3) Identification of the child's special problems and needs.

(4) Identification of any prescribed medications being taken by the child.

(5) Ambulatory status.

(c) The Department has the authority to require the licensee to obtain a current written medical assessment if such an assessment is necessary to verify the appropriateness of a client's placement.

(d) If a medical assessment is not available for a child and cannot be obtained within 30 days of admission:

(1) A medical appointment date shall be obtained from the authorized representative upon the child's admission.

(2) A TB test shall be obtained on the child within 30 days of admission.

(e) The licensee is not required to document medical assessments on children who are also enrolled in a public or private elementary school.

(f) A child whose authorized representatives adhere to a religious faith that practices healing by prayer or other spiritual means shall not be required to meet the requirements of this section provided the authorized representatives:

(1) Provide information on the child's health history.

(2) Sign a statement that indicates their:

(A) Acceptance of full responsibility for the child's health.

(B) Refusal to obtain a medical examination of the child.

(C) Request that no medical care be given to the child.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).

2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101220.1. Immunizations.

(a) Prior to admission to a child care center, children shall be immunized against diseases as required by the California Code of Regulations, Title 17, commencing with Section 6000.

(1) Centers that meet the criteria of Health and Safety Code Section 1596.794 are not required to verify or document children's immunizations.

(e) The licensee shall be permitted to exempt a child from immunization requirements provided that one of the following criteria is met and the related documentation is kept in the child's file:

(1) A physician provides a written statement that an immunization(s) should not be given to the child and specifies how long this exemption is expected to be needed.

(2) The child's authorized representative provides a written statement that immunizations are contrary to his/her personal or religious beliefs.

(f) As required by the California Code of Regulations, Title 17, Section 6035(b), a child who does not meet any of the requirements in Sections 101220.1(c), (d) or (e) above shall not be admitted to a child care center.

(g) The licensee shall document each child's immunizations and shall maintain such documentation in the center for as long as the child is enrolled.

(1) This requirement includes updating each child's immunization record when the child is due to receive required immunizations after enrollment in the child care center.

(i) The licensee is not required to document immunizations of children also enrolled in a public or private elementary school.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1597.05 and 1596.794, Health and Safety Code.

HISTORY

1. Renumbering of former section 101320.1 to new section 101220.1, including amendment of section and NOTE, filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101221. Child's Records.

(a) The licensee shall ensure that a separate, complete and current record for each child is maintained in the child care center.

(b) Each record shall contain information including, but not limited to, the following:

(1) Name of child.

(2) Birthdate.

(3) Sex.

(4) Date of Admission.

(5) Name, address and telephone number of the child's authorized representative and of relatives or others who can assume responsibility for the child if the authorized representative cannot be reached when necessary.

(6) A signed copy of the admission agreement specified in Section 101219.

(7) Name, address and telephone number of the child's physician and dentist and any other medical/dental or mental health providers.

(8) Medical assessment, including ambulatory status as specified in Section 101220, and the following health information:

(A) Dietary restrictions and allergies.

(B) Instructions for action to be taken in case the child's authorized representative, or the physician designated by the authorized representative, cannot be reached in an emergency.

(C) A signed consent form for emergency medical treatment unless the child's authorized representative has signed the statement specified in Section 101220(f).

(9) Record of any illness or injury requiring treatment by a physician or dentist and for which the center provided assistance to the child in meeting his/her necessary medical or dental needs.

(10) Record of current medications, including the name of the prescribing physician, and instructions, if any, regarding control and custody of medications.

(11) Signed and dated authorization from the child's authorized representative for each activity away from the center.

(12) Date of termination of services.

(c) All information and records obtained from or regarding children shall be confidential.

(1) The licensee shall be responsible for safeguarding the confidentiality of record contents.

(2) Except as specified in (d) below, or as otherwise authorized by law, the licensee and all employees shall not reveal or make available confidential information.

(d) All children's records shall be available to the Department to inspect, audit, and copy upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the following requirements:

(1) Licensing representatives shall not remove the following current records for current children in care unless the same information is otherwise readily available in another document or format:

(A) Name, address and telephone number of the child's authorized representative, and of relatives or others who can assume responsibility for the child if the authorized representative cannot be reached, as specified in Section 101221(a)(5).

(B) Name, address and telephone number of the child's physician, dentist and any other health-care providers as specified in Section 101221(a)(7).

(C) Medical assessment and other information as specified in Section 101221(a)(8).

(D) Records of any current illness or injury as specified in Section 101221(a)(9).

(E) Record of current medications as specified in Section 101221(a)(10).

(F) Any current authorizations for children's activities away from the center as specified in Section 101221(a)(11).

(G) Immunization records as specified in Section 101220.1(g).

(H) Any other records containing current emergency or health-related information for current children in care.

(2) Prior to removing any records, a licensing representative shall prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.

(3) Licensing representatives shall return the records undamaged and in good order within three business days following the date the records were removed.

(e) A child's records shall also be open to inspection by the child's authorized representative.

(f) The information specified in (b)(1) through (b)(12) above shall be updated as necessary to ensure the accuracy of the child's record.

(g) Originals or photocopies of all children's records shall be kept for at least three years following termination of service to the child.

(h) The licensee shall provide the name, address and telephone number of the child's authorized representative to a peace officer as specified in Health and Safety Code Section 1596.876.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.857, 1596.876 and 1597.05, Health and Safety Code; and *Golden Day Schools, Inc. v. Pirillo* (C.D. Cal 2000) 118 F.Supp.2nd 1037.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment of section and NOTE filed 9-14-98; operative 11-1-98 (Register 98, No. 38).
3. Amendment of subsections (a) and (d)-(d)(1), new subsections (d)(1)(A)-(e), subsection relettering and amendment of NOTE filed 5-9-2005; operative 6-8-2005 (Register 2005, No. 19).

§ 101223. Personal Rights.

(a) The licensee shall ensure that each child is accorded the following personal rights:

(1) To be accorded dignity in his/her personal relationships with staff and other persons.

(2) To be accorded safe, healthful and comfortable accommodations, furnishings and equipment to meet his/her needs.

(3) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse or other actions of a punitive nature including but not limited to: interference with functions of daily living including eating, sleeping or toileting; or withholding of shelter, clothing, medication or aids to physical functioning.

(4) To be informed, and to have his/her authorized representative informed, by the licensee of the law regarding complaints including, but not limited to, information on confidentiality and the address and telephone number of the Department's complaint unit.

(5) To be free to attend religious services or activities of his/her choice.

(A) Attendance at religious services in or outside of the center shall be voluntary. The child's authorized representative shall make decisions about the child's attendance at religious services.

(6) Not to be locked in any room, building or center premises by day or night.

(A) The licensee is not prohibited by this provision from locking exterior doors and windows or from establishing rules for the protection of children provided the children are able to exit the center.

(B) The licensee shall obtain prior approval from the Department to utilize means other than those specified in (A) above for securing exterior doors and windows.

(7) Not to be placed in any restraining device. Postural supports may be used as specified in Section 101223.1.

(8) To receive or reject medical care, or health-related services, except for minors for whom a guardian, conservator or other legal authority has been appointed.

(b) The center shall inform each child's authorized representative of the rights specified in (a)(1) through (8) above.

(1) The center shall give each authorized representative a copy of the Personal Rights form (LIC 613A [9/96]).

(A) Each authorized representative shall be asked to sign and date the acknowledgment-of-receipt statement at the bottom of the LIC 613A (9/96). This documentation shall be kept in the child's file.

(2) The center shall post a copy of the LIC 613A (9/96) in a prominent, publicly accessible area in the center.

(c) The licensee shall ensure that each child is accorded the personal rights specified in this section.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).

2. Amendment of section, including renumbering of subsections (a)(7)(A)–(E) to new section 101223.1(a)(1)–(5), filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101223.1. Postural Supports/Protective Devices.

(a) Postural supports may be used with prior approval by the Department as specified in (1) through (5) below.

(1) Supportive restraints shall be limited to appliances or devices, including straps, spring–release trays or soft ties, that are used to support a child in a bed, chair or wheelchair to prevent falling.

(2) All requests to use supportive restraints shall be in writing and shall include a written order from a physician indicating the need for such restraints. The Department is authorized to require additional documentation in order to evaluate the request.

(3) Approved supportive restraints shall be fastened or tied in a manner that permits quick release.

(4) The Department shall approve the use of supportive restraints only after the appropriate fire clearance, as required by Section 101171, has been secured.

(5) The Department has the authority to grant conditional and/or limited approvals to use supportive restraints.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

[The next page is 1449.]

HISTORY

1. New section, including renumbering and amendment of section 101223(a)(7)(A)–(E) to new subsections (a)(1)–(5), filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101223.2. Discipline.

(a) Any form of discipline or punishment that violates a child's personal rights as specified in Section 101223 shall not be permitted regardless of authorized representative consent or authorization.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 101323.1 to new section 101223.2 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101224. Telephones.

(a) All child care centers shall have working telephone service on the premises.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101225. Transportation.

(a) Only drivers licensed for the type of vehicle operated shall be permitted to transport children.

(b) The manufacturer's rated seating capacity of the vehicles shall not be exceeded.

(c) Motor vehicles used to transport children shall be maintained in a safe operating condition.

(d) All vehicle occupants shall be secured in an appropriate restraint system.

(e) Children shall not be left in parked vehicles.

(f) The licensee shall post signs at the entrance to the child care center that provide the telephone number of the local health department and information on child passenger restraint systems pursuant to Health and Safety Code Section 1596.95(g) and Vehicle Code Section 27360(b).

(1) The signs shall provide all of the following information:

(A) Protect your child—it is the law.

(B) Children under the age of four years, regardless of weight, or weighing less than 40 pounds, regardless of age, must be in an approved child passenger restraint system.

(C) You may be cited for a violation of the child passenger restraint system provisions. In addition, your automobile insurance rates could be adversely affected as a result.

(D) Call your local health department for more information.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1596.95, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. New subsections (d)–(f)(1)(D) and amendment of NOTE filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101226. Health–Related Services.

(a) The licensee shall immediately notify the child's authorized representative if the child becomes ill or sustains an injury more serious than a minor cut or scratch. The licensee shall obtain specific instructions from the authorized representative regarding action to be taken.

(1) In the case of an illness severe enough to require isolation of the child, the center shall follow the procedures specified in Section 101226.2.

(2) In the case of less serious injuries including, but not limited to, minor cuts, scratches and bites from other children requiring assessment and/or administration of first aid by staff, the licensee shall document the injury in the child's record and notify the child's authorized representative of the nature of the injury when the child is picked up from the center.

(b) The licensee shall make prompt arrangements for obtaining medical treatment for any child if necessary.

(c) The licensee shall obtain emergency medical treatment without specific instructions from the child's authorized representative if the authorized representative cannot be reached immediately, or if the nature of the child's illness or injury is such that there should be no delay in getting medical treatment for the child.

(1) The teacher supervising activities away from the center premises shall carry one of the following for each child engaged in such activities:

(A) A signed consent form for emergency medical treatment; or

(B) For a child not required to have a consent form for emergency medical treatment pursuant to Section 101220(f), the phone numbers of the authorized representative, relatives or others who can assume responsibility for the child in an emergency.

(d) The licensee shall maintain the following first–aid supplies in a location accessible to staff but inaccessible to children:

(1) A current edition of a first–aid manual.

(2) Sterile first–aid dressings.

(3) Bandages or roller bandages.

(4) Adhesive tape.

(5) Scissors.

(6) Tweezers.

(7) Thermometer.

(8) Antiseptic solution.

(e) In centers where the licensee chooses to handle medications:

(1) All prescription and nonprescription medications shall be centrally stored in accordance with the requirements specified below:

(A) Medications shall be kept in a safe place inaccessible to children.

(B) Each container shall have an unaltered label.

(C) A refrigerator shall be used to store any medication that requires refrigeration.

(2) All prescription and nonprescription medications shall be maintained with the child's name and shall be dated.

(3) Prescription medications may be administered if all of the following conditions are met:

(A) Prescription medications shall be administered in accordance with the label directions as prescribed by the child's physician.

(B) For each prescription medication, the licensee shall obtain, in writing, approval and instructions from the child's authorized representative for the administration of the medication to the child.

1. This documentation shall be kept in the child's record.

2. The instructions from the child's authorized representative shall not conflict with the label directions as prescribed by the child's physician.

(4) Nonprescription medications may be administered without approval or instructions from the child's physician if all of the following conditions are met:

(A) Nonprescription medications shall be administered in accordance with the product label directions on the nonprescription medication container(s).

(B) For each nonprescription medication, the licensee shall obtain, in writing, approval and instructions from the child's authorized representative for the administration of the medication to the child.

1. This documentation shall be kept in the child's record.

2. The instructions from the child's authorized representative shall not conflict with the product label directions on the nonprescription medication container(s).

(5) The licensee shall develop and implement a written plan to record the administration of prescription and nonprescription medications and to inform the child's authorized representative daily when such medications have been given.

(6) When no longer needed by the child, or when the child withdraws from the center, all medications shall be returned to the child's authorized representative or disposed of after an attempt to reach the authorized representative.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering and amendment of section heading and section of former section 101326 to new section 101226 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).
2. Editorial correction of subsection (e)(3) (Register 2002, No. 39).

§ 101226.1. Daily Inspection for Illness.

(a) The licensee shall be responsible for ensuring that children with obvious symptoms of illness including, but not limited to, fever or vomiting, are not accepted.

(1) Additional attention shall be paid to children who:

(A) Have been absent because of illness.

(B) Have been exposed to a contagious disease.

(b) The licensee shall develop and implement a written inspection procedure that shall include the following:

(1) No child shall be accepted without contact between center staff and the person bringing the child to the center.

(2) The licensee shall require that the person bringing the child to the center remain until the child is accepted.

(A) After the child has been determined to be without obvious signs of illness and has been accepted, the center shall require that the person sign the child in.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 101326.1 to new section 101226.1 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101226.2. Isolation for Illness.

(a) A center shall be equipped to isolate and care for any child who becomes ill during the day.

(1) The isolation area shall be located to afford easy supervision of children by center staff.

(2) The isolation area shall be equipped with a mat, cot, couch or bed for each ill child.

(3) The isolation area shall not be located in the kitchen area or the general–use toilet area.

(4) In combination centers, only one isolation area that serves all licensed components is required.

(b) The child's authorized representative shall be notified immediately when the child becomes ill enough to require isolation, and shall be asked to have the child removed from the center as soon as possible.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 101326.2 to new section 101226.2 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101226.3. Observation of the Child.

(a) The behavior and health of the children shall be continually observed throughout the period of attendance.

(b) Any unusual behavior, any injury or any signs of illness requiring assessment and/or administration of first aid by staff shall be reported to the child's authorized representative and recorded in the child's record.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 101326.3 to new section 101226.3 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101227. Food Service.

(a) In child care centers providing meals to children, the following shall apply:

(1) All food shall be safe and of the quality and in the quantity necessary to meet the needs of the children. Each meal shall include, at a minimum, the amount of food components as specified by Title 7, Code of Federal Regulations, Part 226.20, (Revised January 1, 1990) Requirements for Meals, for the age group served. All food shall be selected, stored, prepared and served in a safe and healthful manner.

(2) Where all food is provided by the center, arrangements shall be made so that each child has available at least three meals per day.

(A) Not more than 15 hours shall elapse between the third meal of one day and first meal of the following day.

(3) Where meal service within a center is elective, arrangements shall be made to ensure availability of a daily food intake meeting the requirements of (a)(1) above for all children who elect meal service in their admission agreement.

(4) Between meals, snacks shall be available for all children unless the food a child may eat is limited by dietary restrictions prescribed by a physician. Each snack shall include at least one serving from each of two or more of the four major food groups.

(5) The following shall be offered daily:

(A) Full–day programs shall offer a midmorning and midafternoon snack.

(B) Full–day programs shall ensure that each child has a lunch.

1. The child's authorized representative may send meals and/or snacks for the child.

(C) Half–day programs shall offer a midmorning or midafternoon snack.

(6) Menus shall be in writing and shall be posted at least one week in advance in an area accessible for review by the child's authorized representative. Copies of the menus as served shall be dated and kept on file for at least 30 days. Menus shall be made available for review by the child's authorized representative and the Department upon request.

(7) Modified diets prescribed by a child's physician as a medical necessity shall be provided.

(A) The licensee shall obtain and follow instructions from the physician or dietitian on the preparation of the modified diet.

(B) A child shall not be served any food to which the child's record indicates he/she has an allergy.

(8) Commercial foods shall be approved by appropriate federal, state and local authorities. All foods shall be selected, transported, stored, prepared and served so as to be free from contamination and spoilage and shall be fit for human consumption. Food in damaged containers shall not be accepted, used or retained.

(9) Where indicated, food shall be cut, chopped or ground to meet individual needs.

(10) Powdered milk shall not be used as a beverage but shall be allowed in cooking and baking. Raw milk, as defined in Division 15 of the California Food and Agricultural Code, shall not be used. Milk shall be pasteurized.

(11) Except upon written approval by the Department, meat, poultry and meat food products shall be inspected by state or federal authorities. Written evidence of such inspection shall be available for all products not obtained from commercial markets.

(12) All home–canned foods shall be processed in accordance with standards of the University of California Agricultural Extension Service. Home–canned foods from outside sources shall not be used.

(13) If food is prepared off the center premises, the following shall apply:

(A) The preparation source shall meet all applicable requirements for commercial food services.

(B) The center shall have the equipment and staff necessary to receive and serve food and to clean up.

(C) The center shall maintain the equipment necessary for in–house food preparation, or shall have an alternate source for food preparation and service in the event of an emergency.

(14) All persons engaged in food preparation and service shall observe personal hygiene and food–service sanitation practices that protect food from contamination.

(15) All foods or beverages capable of supporting the rapid and progressive growth of microorganisms that can cause food infections or food intoxications shall be stored in covered containers at 45 degrees F (7.2 degrees C) or less.

(16) Pesticides and other similar toxic substances shall not be stored in food storerooms, kitchen areas, food–preparation areas, or areas where kitchen equipment or utensils are stored.

(17) Soaps, detergents, cleaning compounds or similar substances shall be stored in areas separate from food supplies.

(18) All kitchen, food–preparation and storage areas shall be kept clean and free of litter and rubbish; and measures shall be taken to keep all such areas free of rodents and other vermin.

(19) All food shall be protected against contamination. Contaminated food shall be discarded immediately.

(20) All equipment (fixed or mobile), dishes and utensils shall be kept clean and maintained in safe condition.

(21) All dishes and utensils used for eating and drinking, and in the preparation of food and drink, shall be cleaned and sanitized after each use.

(A) Dishwashing machines shall reach a temperature of 165 degrees F (74 degrees C) during the washing and/or drying cycle to ensure that dishes and utensils are cleaned and sanitized.

(B) Centers not using dishwashing machines shall clean and sanitize dishes and utensils by an alternative comparable method.

(22) Equipment necessary for the storage, preparation and service of food or snacks shall be provided and shall be well–maintained. Necessary equipment shall include, but not be limited to:

(A) Sink.

(B) Hot and cold running water.

(C) Refrigeration.

(D) Storage space for food.

(23) Tables, dishes and utensils shall be provided in the quantity necessary to serve the children.

(24) Adaptive devices shall be provided for self–help in eating as needed by children.

(25) The food–preparation area shall not be used for:

(A) Children's play activities unless such activities are part of a supervised food–education program.

(B) Napping.

(C) A passageway for children while the area is being used for food preparation or service.

(b) The Department has the authority to require the center to provide documentation on food purchased and used over a given period, including menus, when necessary to determine if the licensee is complying with the food–service requirements in this chapter.

(1) The Department shall specify in writing the documentation required from the licensee.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment of subsections (a) and (c) filed 5–16–91; operative 6–16–91 (Register 91, No. 27).
3. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101228. Personal Services. (Reserved)

§ 101229. Responsibility for Providing Care and Supervision.

(a) The licensee shall provide care and supervision as necessary to meet the children's needs.

(1) No child(ren) shall be left without the supervision of a teacher at any time, except as specified in Sections 101216.2(e)(1) and 101230(c)(1). Supervision shall include visual observation.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Renumbering and amendment of former subsection 101329(a) to new subsection 101229(a)(1) filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101229.1. Sign In and Sign Out.

(a) In addition to the sign–in procedure requirement of Section 101226.1(b), the licensee shall develop, maintain and implement a written procedure to sign the child in/out of the child care center that shall, at a minimum, include the following:

(1) The person who signs the child in/out shall use his/her full legal signature and shall record the time of day.

(b) The person who brings the child to, and removes the child from, the center shall sign the child in/out.

(c) A person who removes the child from the center during the day, and returns the child to the center the same day, shall sign the child in/out.

(d) The sign-in and sign–out sheets with the signatures required by this section and by Section 101226.1 shall be kept for one month and shall be available at the center for review by the Department.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 101329.1 to new section 101229.1 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101230. Activities/Napping.

(a) Each center shall provide a variety of daily activities designed to meet the needs of children in care, including but not limited to:

(1) Quiet and active play.

(2) Rest and relaxation.

(3) Eating.

(4) Toileting.

(b) All children shall be given an opportunity to nap or rest without distraction or disturbance from other activities at the center.

(1) A napping space and a cot or mat shall be available for each child under the age of five.

(2) Centers that serve children in half–day programs are not required to schedule napping periods or have napping equipment for such children.

(3) No child shall be forced to stay awake or to stay in the napping area longer than the normal napping period.

(c) A teacher–child ratio of one teacher supervising 24 napping children is permitted provided that the remaining teachers necessary to meet the overall ratio specified in Section 101216.3(a) are immediately available at the center.

(1) An aide who is 18 years of age or older, and who meets the requirements of Sections 101216 and 101216.2, may supervise 24 napping children in place of a teacher if the conditions specified in (c) above are met.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Repealer of section and renumbering of former section 101330 to new section 101230, including amendment of section heading and section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101231. Smoking Prohibition.

(a) Smoking is prohibited on the premises of a child care center as specified in Health and Safety Code Section 1596.795(b).

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.795, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. New section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

Article 7. Physical Environment

§ 101237. Alterations to Existing Buildings or New Facilities.

(a) Prior to construction or alterations, the licensee shall notify the Department of the proposed change(s).

(b) The Department has the authority to require the licensee to obtain a building inspection by a local building inspector if the Department suspects that a hazard to children's health and safety exists.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101238. Buildings and Grounds.

(a) The child care center shall be clean, safe, sanitary and in good repair at all times to ensure the safety and well–being of children, employees and visitors.

(1) The licensee shall take measures to keep the center free of flies, other insects, and rodents.

(2) The licensee shall safely dispose of water and any disinfectants/solutions that have been used for cleaning.

(b) All children shall be protected against hazards within the center through provision of the following:

(1) Protective devices including but not limited to nonslip material on rugs.

(c) All outdoor and indoor passageways, stairways, inclines, ramps, open porches and other areas of potential hazard shall be kept free of obstruction.

(d) General permanent or portable storage space shall be available for the storage of the center's equipment and supplies.

(1) Such equipment and supplies shall be stored in this space and shall not be stored in space used to meet other requirements specified in this chapter.

(e) All licensees shall ensure the inaccessibility of pools, including swimming pools (in–ground and above–ground), fixed–in–place wading pools, hot tubs, spas, fish ponds or similar bodies of water, through a pool cover or by surrounding the pool with a fence.

(1) Fences shall be at least five feet high and shall be constructed so that the fence does not obscure the pool from view. The bottom and sides of the fence shall comply with Division 1, Appendix Chapter 4 of the 1994 Uniform Building Code. In addition to meeting all of the aforementioned requirements for fences, gates shall swing away from the pool, self–close and have a self–latching device located no more than six inches from the top of the gate. Pool covers shall be strong enough to completely support the weight of an adult and shall be placed on the pool and locked while the pool is not in use.

(A) If licensed prior to June 1, 1995, child care centers with existing pool fencing shall be exempt from the fence requirements specified in Section 101238(e)(1) until such fence is replaced or structurally altered. If the licensee replaces or alters the fence, it shall meet the requirements specified in Section 101238(e)(1).

(2) Where an above–ground pool structure is used as the fence or where the fence is mounted on top of the pool structure, the pool shall be made inaccessible when not in use by removing or making the ladder inaccessible or erecting a barricade to prevent access to decking. If a barricade is used, the barricade shall meet the requirements of Section 101238(e)(1).

(f) All in–ground pools, and all above–ground pools that cannot be emptied after each use shall have an operative pump and filtering system.

(g) Disinfectants, cleaning solutions, poisons and other items that could pose a danger if readily available to children shall be stored where inaccessible to children.

(1) Storage areas for poisons shall be locked.

(2) Firearms and other weapons shall not be allowed on or stored on the premises of a child care center.

(h) Medicines shall be stored as specified in Section 101226(e) and separately from items specified in Section 101238(g) above.

(i) The items specified in Section 101238(g) above shall not be stored in food–storage areas or in storage areas used by or for children.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, and 1596.81, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment of subsections (f)–(f)(2) filed 8–14–96; operative 9–13–96 (Register 96, No. 33).
3. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101238.2. Outdoor Activity Space.

(a) There shall be at least 75 square feet per child of outdoor activity space based on the total licensed capacity.

(1) The following areas shall not be included in the calculation of outdoor activity space:

(A) Swimming pools and adjacent pool decking.

(B) Natural or man–made hazards such as canals, cliffs, condemned buildings, creeks, lakes, ocean fronts, mines, power lines, quarries, rivers, ravines, swamps, watercourses and areas subject to flooding.

(b) The outdoor activity space shall be situated to:

(1) Provide a shaded rest area for the children.

(2) Permit children to reach the outdoor activity space safely.

(c) Equipment and activity areas shall be arranged so that there is no hazard from conflicting activities.

(d) The surface of the outdoor activity space shall be maintained:

(1) In a safe condition for the activities planned.

(2) Free of hazards including, but not limited to, holes, broken glass and other debris, and dry grasses that pose a fire hazard.

(e) As a condition of licensure, the areas around and under high climbing equipment, swings, slides and other similar equipment shall be cushioned with material that absorbs falls.

(1) Sand, woodchips and peagravel, or rubber mats commercially produced for the purposes of (e) above, are permitted.

(2) The use of cushioning material other than that specified in (e)(1) above shall be approved by the Department prior to installation.

(f) Sandboxes shall be inspected daily and kept free of hazardous foreign materials.

(g) The playground shall be enclosed by a fence to protect children and to keep them in the outdoor activity area. The fence shall be at least four feet high.

(h) Any construction or equipment that could pose a hazard in the outdoor activity area shall be made inaccessible to children in care. This shall include, but not be limited to, incinerators, air–conditioning equipment, water heaters and fuse boxes.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 101338.2 to new section 101238.2 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101238.3. Indoor Activity Space.

(a) There shall be at least 35 square feet of indoor activity space per child based on the total licensed capacity.

(1) Bathrooms, halls, offices, isolation areas, food–preparation areas and storage places shall not be included in the calculation of indoor activity space.

(2) Floor space occupied by shelves, permanent built–in cabinets, space used to meet the requirements of Section 101238.4, and office equipment shall not be included in the calculation of indoor activity space.

(3) Floor area under tables, desks, chairs and other equipment intended for use as part of children's activities shall be included in the calculation of indoor activity space.

(b) The floors of all rooms shall have a surface that is safe and clean.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 101338.3 to new section 101238.3 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101238.4. Storage Space.

(a) The licensee shall ensure that each child has an individual permanent or portable storage space for his/her clothing, personal belongings and/or bedding.

(b) There shall be permanent or portable storage space in the playrooms for play materials and equipment.

(1) The licensee may store outdoor play materials and equipment outdoors.

(c) Napping equipment shall be stored at the center when not in use.

(d) Combustibles, cleaning equipment and cleaning agents shall be stored in an area separate from food supplies in a locked cabinet or in a location inaccessible to children.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 101338.4 to new section 101238.4 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101238.5. Wading Pools.

(a) Notwithstanding the requirements of Section 101238(e), fencing is not required for inflatable or other portable plastic wading pools with sides low enough for children using the pool(s) to step out unassisted.

(1) These pools shall be emptied after each use.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 101338.5 to new section 101238.5 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101239. Fixtures, Furniture, Equipment and Supplies.

(a) A comfortable temperature for children shall be maintained at all times.

(1) The licensee shall maintain the temperature in rooms that children occupy between a minimum of 68 degrees F (20 degrees C) and a maximum of 85 degrees F (30 degrees C).

(A) In areas of extreme heat the maximum shall be 20 degrees F (11.1 degrees C) less than the outside temperature.

(b) All window screens shall be in good repair and free of insects, dirt and debris.

(c) Fireplaces and open–faced heaters shall be made inaccessible to children to ensure children's safety.

(d) The licensee shall provide lamps or lights as necessary in all rooms and other areas to ensure the comfort and safety of all persons in the child care center.

(e) Faucets used by children for personal care shall deliver hot water.

(1) Hot water temperature controls shall be maintained to automatically regulate temperature of hot water delivered to plumbing fixtures used by children to attain a hot water temperature of not less than 105 degrees F (40.5 degrees C) and not more than 120 degrees F (48.8 degrees C).

(2) Taps delivering water at 125 degrees F (51.6 degrees C) or above shall be prominently identified by warning signs.

(3) Notwithstanding (e) and (e)(1) above, handwashing fixtures shall not be required to deliver hot water.

(4) All toilets, handwashing and bathing facilities shall be maintained in safe and sanitary operating condition. Additional equipment, aids and/or conveniences shall be provided as needed in centers that serve children with physical disabilities.

(f) Solid waste shall be stored, located and disposed of in a manner that will not transmit communicable diseases or odors, create a nuisance, or provide a breeding place or food source for insects or rodents.

(1) All containers used for storage of solid wastes, including moveable bins, shall have a tightfitting cover that is kept on; shall be in good repair; and shall be leakproof and rodent–proof.

(2) Solid–waste containers that hold decaying waste, including moveable bins, shall be emptied at least once per week, or more often if necessary to comply with (f) above.

(3) Each movable bin shall provide for suitable access and a drainage device to allow complete cleaning at the storage area.

(g) The licensee shall provide linens of various kinds as necessary to meet the program of services offered by the center and the requirements specified in this chapter.

(h) Based on the total licensed capacity, one toilet and one handwashing fixture shall be maintained for every 15 children or fraction thereof.

(1) Urinals may be used to meet the requirements of this section provided they are low enough for children to reach them, or broad–based platforms or anchored steps are provided to enable children to reach them.

(A) There shall be at least two toilets for each urinal counted.

(B) Centers with toilet–urinal ratios approved prior to December 31, 1983, are not required to meet the ratio in (h)(1)(A) above.

(i) There shall be one toilet and one handwashing fixture, separate from and in addition to the number of toilets and handwashing fixtures required in (h) above, designated for use by children who are ill, for use by staff, and for emergency use. This toilet and handwashing fixture shall be conveniently located in relation to the isolation area.

(1) Child care centers licensed prior to December 31, 1983, and operating continuously since then, are not required to make modifications to meet the requirement in (i) above.

(j) Common towels or washcloths are prohibited.

(k) Tables and chairs shall be provided to meet the needs of the children.

(1) Tables and chairs shall be scaled to the size of the children.

(l) There shall be a cot, couch or bed for each ill child as specified in Section 101226.2.

(m) All play equipment and materials used by children shall be age–appropriate.

(1) The licensee shall provide a variety of age–appropriate equipment, toys and materials in good condition and in sufficient quantity to allow children present to fully participate in planned activities.

(n) Furniture and equipment shall be maintained in good condition, free of sharp, loose or pointed parts.

(1) A baby walker shall not be allowed on the premises of a child care center in accordance with Health and Safety Code Sections 1596.846(b) and (c).

(o) Playground equipment shall be securely anchored to the ground unless it is portable by design.

(1) Equipment shall be maintained in a safe condition, free of sharp, loose or pointed parts.

(p) Furniture and equipment, including cots and mats used for napping, shall be arranged so that no exit is blocked.

(q) All materials and surfaces accessible to children, including toys, shall be free of toxic substances.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.846 and 1597.05, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment of section and NOTE filed 9–14–98; operative 11–1–98 (Register 98, No. 38).
3. Editorial correction reinstating inadvertently omitted subsection (h)(1)(A) (Register 2002, No. 39).

§ 101239.1. Napping Equipment.

(a) Cots used for napping shall be maintained in a safe condition.

(b) Floor mats used for napping shall be:

(1) Constructed of foam at least 3/4 inch thick.

(2) Covered with vinyl or similar material that can be wiped.

(3) Marked or colored so that the sleeping side can be distinguished from the floor side.

(4) Wiped with a detergent/disinfectant weekly or when soiled or wet.

(5) Maintained in a safe condition with no exposed foam.

(c) Each cot or mat shall be equipped with a sheet to cover the cot or mat and, depending on the weather, a sheet and/or blanket to cover the child.

(1) Bedding shall not be shared by different children without first laundering the bedding.

(2) Bedding shall be individually stored so that each child's bedding is identifiable and no child's used bedding comes into contact with other bedding.

(3) Sheets shall be washed weekly or when soiled or wet.

(4) Blankets shall be cleaned or changed when soiled.

(d) Napping equipment shall be arranged so that each child has access to a walkway without having to walk on or over the cots or mats of other children.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 101339.1 to new section 101239.1 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101239.2. Drinking Water.

(a) Drinking water from a noncontaminating fixture or container shall be readily available both indoors and in the outdoor activity area.

(1) Children shall be free to drink as they wish.

(2) Anchored steps or a broad-based platform shall be utilized when a drinking fountain is too high for the children in care.

(3) See Manual of Policies and Procedures.

(4) All water for drinking shall be potable as defined in the California Code of Regulations, Title 24, Part 5.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 101339.2 to new section 101239.2 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

Subchapter 1. (Reserved)

Article 1. General Requirements and Definitions

§ 101251. General.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. Editorial correction renumbering and amending former division 6, chapter 2 (subchapters 1 and 2, sections 81000–81187.3, not consecutive) to new division 12, chapter 2 (subchapters 1 and 2, sections 101251–101438, not consecutive) filed 7–1–85; designated effective 7–1–85 (Register 85, No. 27).
2. Change without regulatory effect (Register 86, No. 29).
3. Change without regulatory effect amending lettering and correcting cross-references filed 5–28–91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 28).
4. Repealer of chapter 2 heading, subchapter 1 (articles 1–7), article 1 (sections 101251–101252) and section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101252. Definitions.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.74, 1596.75, 1596.76, 1596.81 and 1596.955, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment of subsection (a) filed 4–6–87; operative 5–6–87 (Register 87, No. 16).
3. Amendment filed 2–5–88; operative 3–6–88 (Register 88, No. 8).
4. Change without regulatory effect amending lettering and correcting cross-references filed 5–28–91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 28).
5. New subsection t.(1) and amendment of NOTE filed 8–22–94; operative 9–21–94 (Register 94, No. 34).
6. Amendment of subsection c.(1) filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
7. Renumbering of subsections c.1, d.2, e.1 and q.1 to section 101152 and repealer of remainder of section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

Article 2. Licensing

§ 101260. Posting of License.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. Repealer of article 2 (section 101260) and renumbering of former section 101260 to new section 101160 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

Article 3. Application Procedure

§ 101283. Terms of an Initial or Renewal License.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81(b), 1596.96 and 1596.97, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Repealer of article 3 (section 101283) and section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

Article 4. Administrative Actions

§ 101296. Evaluation Visits.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81(b), 1596.852, 1597.05, 1597.08 and 1597.09, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Repealer of article 4 (section 101296) and section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

Article 5. Enforcement Provisions (Reserved)

Article 6. Continuing Requirements

§ 101312. Reporting Requirements.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Renumbering of subsections (b)–(c) to portions of section 101212 and repealer of remainder of section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101315. Day Care Center Directors, Qualifications and Duties.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.87 and 1597.05, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment of subsection (b) filed 4–6–87; operative 5–6–87 (Register 87, No. 16).
3. Relettering of former subsections (i) and (j) to subsections (*l*) and (m) and new subsection (i)–(k) filed 6–20–88; operative 7–20–88 (Register 88, No. 26).
4. Renumbering of former section 101315 to new section 101215.1 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101316.2. Teacher Qualifications and Duties.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.87, 1597.05, 1597.055 and 1597.057, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment of subsections (c)(1)(A), relettering of former subsections (d)–(f) to subsections (g)–(i) and new subsections (d)–(f) filed 6–20–88; operative 7–20–88 (Register 88, No. 26).
3. Renumbering of former subsection (c)(2) to subsection (c)(3) and new subsection (c)(2) filed 12–14–89; operative 1–13–90 (Register 89, No. 52).
4. Renumbering of former section 101316.2 to new section 101216.1 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101316.3. Teacher Aide Qualifications and Duties.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.87, 1597.05 and 1597.059, Health and Safety Code.

HISTORY

1. New subsections (d)–(d)(3), subsection redesignation and amendment of NOTE filed 8–22–94; operative 9–21–94 (Register 94, No. 34).
2. Renumbering of former section 101316.3 to new section 101216.2 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101316.5. Teacher–Child Ratio.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1597.05 and 1597.059, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Change without regulatory effect amending lettering and correcting cross-references filed 5–28–91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 28).
3. New subsections (b)(1)–(b)(1)(A) and amendment of NOTE filed 8–22–94; operative 9–21–94 (Register 94, No. 34).
4. Renumbering of former section 101316.5 to new section 101216.3 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101316.6. Preschool Program with Toddler Component.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Section 1596.955, Health and Safety Code.

HISTORY

1. New section filed 8–22–94; operative 9–21–94 (Register 94, No. 34).
2. Renumbering of former section 101316.6 to new section 101216.4 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101316.7. Staffing—Parent–Cooperative Centers.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering of former section 101316.7 to new section 101216.5 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101316.8. Staffing for Water Activities.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.87 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering of former section 101316.8 to new section 101216.6 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101319. Admission Policies.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering of former section 101319 to new section 101218 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101319.1. Admission Procedures.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.857 and 1597.05, Health and Safety Code.

HISTORY

1. New subsection (c) filed 1–12–88; operative 2–11–88 (Register 88, No. 4).
2. Renumbering of former section 101319.1 to new section 101218.1 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101320. Medical Assessments.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering of subsections (a)(1)–(c)(2)(C) to portions of section 101220 and repealer of remainder of section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101320.1. Immunizations.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering of former section 101320.1 to new section 101220.1 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101321. Child's Records.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.857, 1596.876 and 1597.05, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment of subsection (d) and new subsection (e) filed 1–12–88; operative 2–11–88 (Register 88, No. 4).
3. Renumbering of former subsections (b)(1)–(c)(3) and (e) to portions of section 101221 and repealer of remainder of section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101323.1. Discipline.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Renumbering of former section 101323.1 to new section 101223.2 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101326. Health Related Services.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment of subsection (e)(3) filed 8–22–86; effective thirtieth day thereafter (Register 86, No. 34).
3. Renumbering former section 101326 to new section 101226 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101326.1. Daily Inspection for Illness.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Repealer of subsection (c) filed 2–5–88; operative 3–6–88 (Register 88, No. 8).
3. Renumbering of former section 101326.1 to new section 101226.1 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101326.2. Isolation for Illness.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Amendment of subsection (a)(2) filed 8–22–86; effective thirtieth day thereafter (Register 86, No. 34).
2. Renumbering of former section 101326.2 to new section 101226.2 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101326.3. Observation of the Child.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering of former section 101326.3 to new section 101226.3 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101327. Food Service.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering of former subsections (b)–(c), (e) and (f)(1)–(g)(3) to portions of section 101227 and repealer of remainder of section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101329. Responsibility for Providing Care and Supervision.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering of former subsection 101329(a) to new subsection 101229(a)(1) and repealer of remainder of section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101329.1. Sign In and Sign Out.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Repealer of subsection (b) and relettering of subsection (c) to subsection (b) filed 2–5–88; operative 3–6–88 (Register 88, No. 8).
2. Renumbering of former section 101329.1 to new section 101229.1 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101330. Activities.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Renumbering of former section 101330 to new section 101230 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

Article 7. Physical Environment

§ 101338.2. Outdoor Activity Space.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, and 1597.05, Health and Safety Code.

HISTORY

1. Amendment of subsection (a)(1)(B) filed 8–14–96; operative 9–13–96 (Register 96, No. 33).
2. Repealer of article 7 (sections 101338.2–101339.2) and renumbering of former section 101338.2 to new section 101238.2 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101338.3. Indoor Activity Space.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering of former section 101338.3 to new section 101238.3 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101338.4. Storage Space.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Renumbering of former section 101338.4 to new section 101238.4 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101338.5. Wading Pools.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering amendment of former section 101338.5 to new section 101238.5 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101339. Fixtures, Furniture, Equipment and Supplies.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering of former subsections (b)–(k) to portions of section 101239 and repealer of remainder of section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101339.1. Napping Equipment.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering of former section 101339.1 to new section 101239.1 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101339.2. Drinking Water.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering of former section 101339.2 to new section 101239.2 filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

Subchapter 2. Infant Care Center

Article 1. General Requirements and Definitions

§ 101351. General.

(a) Child care centers providing group infant care shall be governed by the provisions specified in this subchapter. In addition, such centers, except where specified otherwise, shall be governed by Chapter 1, Child Care Center General Licensing Requirements.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101352. Definitions.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.75, 1596.750, 1596.76 and 1596.956, Health and Safety Code.

HISTORY

1. New section filed 4–6–87; operative 5–6–87 (Register 87, No. 16).
2. Change without regulatory effect amending lettering and correcting cross-references filed 5–28–91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 28).
3. New subsection t.(1) and amendment of NOTE filed 8–22–94; operative 9–21–94 (Register 94, No. 34).
4. Renumbering of former subsections a.(1) and i.(1)–(3) to portions of section 101152 and repealer of remainder of section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101361. Limitations on Capacity and Ambulatory Status.

(a) It shall be permissible for a child whose developmental needs require continuation in an infant care center to remain in an infant care center up to a maximum age of three years.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 4–6–87; operative 5–6–87 (Register 87, No. 16).

Article 2. Licensing (Reserved)

Article 3. Application Procedures (Reserved)

Article 4. Enforcement Provisions (Reserved)

Article 5. Administrative Actions (Reserved)

Article 6. Continuing Requirements

§ 101415. Infant Care Center Director Qualifications and Duties.

(a) In addition to Section 101215.1, the following shall apply:

(b) The experience requirement specified in Sections 101215.1(h)(1), (2) and (3) shall be completed in an infant care center or a comparable group child care program dealing with children under five years of age.

(c) At least three of the semester or equivalent quarter units required in Sections 101215.1(h)(1)(B), (h)(2) and (h)(3) shall be related to the care of infants.

(d) When the director of an infant care center or the director of a combination center is temporarily away from the center, the director has the authority to delegate his/her responsibilities as specified below:

(1) When an assistant director is required, arrangements shall be made for the assistant director to act as a substitute.

(A) Arrangements shall be made for a fully qualified infant care teacher to act as a substitute for the assistant director.

(2) When an assistant director is not required, arrangements shall be made for a fully qualified infant care teacher to act as a substitute.

(3) If the absence is for more than 30 consecutive calendar days, the substitute director shall meet the qualifications of a director.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.750, 1596.72 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 4–6–87; operative 5–6–87 (Register 87, No. 16).
2. Editorial correction of subsections (b) and (c) (Register 97, No. 41).
3. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).
4. Editorial correction of section heading (Register 2002, No. 39).

§ 101415.1. Assistant Infant Care Center Director Qualifications and Duties.

(a) In addition to the director, an assistant director shall be present and on duty if the center has 25 or more infants in attendance.

(b) The assistant infant care center director shall meet the following qualifications:

(1) Be a fully qualified infant care teacher.

(2) Have completed, with passing grades, at least three postsecondary semester or equivalent quarter units in administration or employee relations at an accredited or approved college or university.

(A) The assistant director may complete the three units required in (b)(2) above within one year following initial employment as assistant director.

(B) The assistant director shall work under the direction and supervision of the infant or child care center director.

(C) Under the leadership of the director, the assistant director shall be responsible for the infant care center or the infant care component of a combination center.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

HISTORY

1. Repealer and new section filed 4–6–87; operative 5–6–87 (Register 87, No. 16). For prior history, see Register 85, No. 27.
2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101416.2. Infant Care Teacher Qualifications and Duties.

(a) Notwithstanding Section 101216.1, the following shall apply:

(b) Prior to employment, an infant care teacher shall have completed, with passing grades, at least three postsecondary semester or equivalent quarter units in early childhood education or child development, and three postsecondary semester or equivalent quarter units related to the care of infants, at an accredited or approved college or university.

(1) After employment, a teacher who has not completed the course work required in (c)(1) below shall complete, with passing grades, at least two units each semester or quarter until the education requirements are met.

(c) To be a fully qualified infant care teacher, a teacher shall have the following:

(1) Completion, with passing grades, of 12 postsecondary semester or equivalent quarter units in early childhood education or child development at an accredited or approved college or university.

(A) At least three of the units required in (c)(1) above shall be related to the care of infants or shall contain instruction specific to infants.

1. Examples of acceptable course work are pediatric nursing and postnatal care.

(2) At least six months of experience in a licensed infant care center or comparable group child care program for children under five years of age.

(A) Experience shall be verified as having been performed satisfactorily, at least three hours per day for a minimum of 50 days in a six–month period, as a paid or volunteer staff member under the supervision of a person who would qualify as a teacher or director under this chapter.

(d) A photocopy of each teacher's transcript(s) documenting successful completion of required course work shall be maintained at the center.

(e) Under the direction and supervision of the director and the assistant director, the infant care teacher shall provide direct care and supervision to infants at the center.

(f) Teachers shall visually observe aides whenever aides are working with infants, except as provided for in Section 101416.5(d)(1).

(g) An infant care teacher shall complete 15 hours of health and safety training if necessary pursuant to Health and Safety Code Section 1596.866 and as specified in Section 101215.1(m)(1).

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. New section filed 4–6–87; operative 5–6–87 (Register 87, No. 16).
2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101416.3. Infant Care Aide Qualifications and Duties.

(a) In addition to Section 101216.2, the following shall apply:

(b) An infant care aide shall work under the direct supervision of the director, the assistant director or a fully qualified teacher, except as provided for in Section 101416.5(d)(1).

(c) Aides shall participate in the on–the–job training programs provided by the licensee as specified in Section 101216(e).

(d) An aide shall provide direct care and supervision to infants.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 4–6–87; operative 5–6–87 (Register 87, No. 16).
2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101416.5. Staff–Infant Ratio.

(a) In addition to Sections 101216.3(c), (e), (g) and (h), and notwithstanding Sections 101216.3(a), (b), (d) and (f), the following shall apply:

(b) There shall be a ratio of one teacher for every four infants in attendance.

(1) An aide may be substituted for a teacher when all of the following conditions are met:

(A) There is a fully qualified teacher directly supervising no more than 12 infants; and

(B) Each aide is responsible for the direct care and supervision of a group of no more than four infants.

(2) When engaged in activities away from the center, there shall be a minimum of one adult to every two infants in attendance.

(A) This ratio may include authorized representatives of infants in care and adult volunteers to supplement the staff–infant ratio.

(c) The director and the assistant director in an infant care center or a combination center may be counted in the staff–infant ratio when actually working with infants.

(d) There shall be one teacher to visually observe every 12 sleeping infants provided the remaining staff necessary to meet the ratios specified in (b) above are immediately available at the center.

(1) An aide who is 18 years of age or older, and who meets the requirements of Sections 101216 and 101216.2(e), may visually observe 12 sleeping infants in place of a teacher if the conditions specified in (d) above are met.

(e) There shall be provision for overlap of staff for different shifts so that continuity of care is assured.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former Section 101416.3 to Section 101416.5 filed –6–87; operative 5–6–87 (Register 87, No. 16).
2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101416.8. Staffing for Infant Water Activities.

(a) In addition to Sections 101216.6(a) and 101416.5(b), and notwithstanding Section 101216.6(b), the following shall apply:

(b) A ratio of one adult to two infants shall be maintained during activities in or near any body of water specified in Sections 101216.6(a)(1) and (3).

(c) A ratio of one staff member to every four infants shall be maintained during activities in or near any container of water that a child can get into and get out of unassisted. This shall include, but not be limited to, wading pools, basins or water trays.

(1) This ratio may include authorized representatives of infants in care and adult volunteers to supplement the staff–infant ratio.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 4–6–87; operative 5–6–87 (Register 87, No. 16).
2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).
3. Editorial correction of subsection (a) (Register 2002, No. 39).

§ 101417. Toddler Component in an Infant Care Center.

(a) Licensees serving infants may create a special program component for children between the ages of 18 months and 30 months. The provisions of Sections 101151 through 101239.2 and 101351 through 101439.1 shall apply to infant care centers operating a toddler component, except as specified in Sections 101417(a)(1) through (6).

(1) Child care centers with an existing infant care program wishing to establish a toddler component shall submit an amended application as specified in Section 101169(a)(1)(A) and shall obtain approval from the Department.

(2) Children in a child care center between the ages of 18 months and 30 months may be placed in the toddler program. No child shall be placed in the toddler program before the age of 18 months.

(3) The infant care center shall obtain written permission from the child's authorized representative for the placement of the child in the toddler program.

(4) A ratio of six children to each teacher shall be maintained for all children in attendance in the toddler program. An aide who is participating in on-the-job-training may be substituted for a teacher when directly supervised by a fully qualified teacher.

(5) The maximum group size with two teachers, or one fully qualified teacher and one aide, shall not exceed 12 toddlers.

(6) The toddler program shall be conducted in areas physically separate from those used by older or younger children. Space planning and usage for the toddler component shall be governed by the provisions of Section 101438.3. Plans to alternate use of outdoor play space must be approved by the Department.

(A) Requirements for physical separation between children in the toddler component and older or younger children need not apply when a planned activity is being conducted.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Section 1596.956, Health and Safety Code.

HISTORY

1. New section filed 8-22-94; operative 9-21-94 (Register 94, No. 34).
2. Amendment filed 9-14-98; operative 11-1-98 (Register 98, No. 38).

§ 101419. Admission Policies.

HISTORY

1. Repealer filed 4-6-87; operative 5-6-87 (Register 87, No. 16).

§ 101419.2. Infant Needs and Services Plan.

(a) Prior to the infant's first day at the center, the infant care center director or assistant director shall complete a needs and services plan for the infant.

(1) Such plan shall be completed with the assistance of the infant's authorized representative at the personal interview specified in Section 101218.1.

(2) The authorized representative shall sign the plan to verify that he/she has participated in preparing it.

(b) The needs and services plan shall be in writing and shall include the following:

(1) The individual feeding plan.

(2) The individual toilet-training plan, if applicable.

(3) Any services needed by the infant that are different from those provided by the center's normal program. Such items shall include but not be limited to:

(A) Any special exercises for infants with physical disabilities.

(4) A plan for subsequent personal interviews with the authorized representative.

(c) The authorized representative shall be provided with a copy of the needs and services plan and any subsequent updates.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 4-6-87; operative 5-6-87 (Register 87, No. 16).
2. Editorial correction of subsection (b) printing error (Register 87, No. 45).
3. Amendment filed 9-14-98; operative 11-1-98 (Register 98, No. 38).

§ 101419.3. Modifications to Infant Needs and Services Plan.

(a) The written infant needs and services plan shall be updated at least quarterly, or as often as necessary to assure its accuracy.

(1) The director, the assistant director or a teacher shall update the plan with the assistance of the infant's authorized representative.

(2) The authorized representative shall sign the plan to verify that he/she has participated in updating it.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 4-6-87; operative 5-6-87 (Register 87, No. 16).
2. Amendment filed 9-14-98; operative 11-1-98 (Register 98, No. 38).

§ 101423.1. Infant Care Discipline.

(a) In addition to Section 101223.2, the following shall apply:

(b) Confinement to cribs, high chairs, playpens or other similar furniture or equipment shall not be permitted as a form of discipline or punishment.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 4-6-87; operative 5-6-87 (Register 87, No. 16).
2. Amendment of subsection (a) filed 9-14-98; operative 11-1-98 (Register 98, No. 38).

§ 101425. Infant Care Transportation.

(a) In addition to Section 101225, the following shall apply:

(b) Only licensed drivers 18 years old or older shall be permitted to operate any vehicle used to transport infants.

(c) Motor vehicles used to transport infants shall contain a first-aid kit containing at least the supplies specified in Section 101226(d).

(1) When public transportation is used to transport infants, center staff shall have on hand, and available for use, a first-aid kit as specified in (c) above.

(d) When transporting infants in any motor vehicle, the licensee shall secure each infant in a child passenger restraint system, i.e., a car seat designed for an infant. The child passenger restraint system shall be secured in the vehicle in accordance with the manufacturer's instructions.

(1) The manufacturer's instructions shall be maintained in the center for as long as the infant car seat is in use.

(2) Vehicle Code Section 27360(b) requires that children as specified must be secured in a child passenger restraint system.

(e) The staff-infant ratio shall be maintained while transporting infants in motor vehicles.

(1) The required supervision ratios shall be maintained whether the vehicle is moving or parked.

(f) Infants in motor vehicles shall have constant adult supervision and shall not be left unattended under any circumstances.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 4-6-87; operative 5-6-87 (Register 87, No. 16).
2. Amendment filed 9-14-98; operative 11-1-98 (Register 98, No. 38).

§ 101426. Health-Related Services.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Repealer filed 4-6-87; operative 5-6-87 (Register 87, No. 16).

§ 101426.2. Infant Care Isolation for Illness.

(a) In addition to Section 101226.2, the following shall apply:

(b) The isolation area shall be equipped with a crib, cot, mat or playpen for each ill infant.

(c) Any infant in the isolation area shall be under constant visual observation by a director, an assistant director, a teacher or an aide.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. New section filed 4-6-87; operative 5-6-87 (Register 87, No. 16).

2. Amendment of section and NOTE filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101427. Infant Care Food Service.

(a) In addition to Section 101227, the following shall apply:

(b) There shall be an individual feeding plan for each infant.

(1) The plan shall be completed and available for use prior to the infant's first day at the center.

(2) The director or the assistant director, and the infant's authorized representative and/or physician, shall develop the plan.

(A) The authorized representative shall sign the plan to verify that he/she has participated in developing and updating it.

(3) The plan shall include the following items:

(A) Instructions from the infant's physician relating to special diet or feeding.

(B) Feeding schedule.

(C) Breast milk or kind of formula.

(D) Schedule for introduction of solid and new foods.

(E) Food consistency.

(F) Food likes and dislikes.

(G) Food allergies.

(H) Schedule for introduction of cups and utensils.

(4) The plan shall be updated as often as the authorized representative wants, or as necessary to reflect changes in any of the areas specified above.

(5) The infant care center director or assistant director shall discuss current feeding theory with the authorized representative. This discussion should cover the dangers of honey.

(c) The infant shall be fed in accordance with the individual plan.

(1) Bottle–fed infants shall be fed at least once every four hours.

(2) The infant care center shall have appropriate food available for the infant.

(A) Where the infant's authorized representative elects to provide food for the infant but forgets to bring it, the center shall provide appropriate food for the infant.

(3) Introduction of solid foods shall be in accordance with the individual plan.

(d) The infant care center shall provide only commercially prepared formulas for infants.

(1) Commercial formulas shall be stored and prepared in accordance with label directions.

(2) The specific brand of formula shall be specified in the feeding plan.

(3) Any change from one formula to another shall be reflected in advance on the feeding plan.

(e) The infant's authorized representative may provide formula or breast/mother's milk.

(1) Such formula or milk shall be bottled before being accepted by the center.

(A) Bottles shall be labeled.

(f) The infant care center may heat formula or breast/mother's milk.

(g) A supply of bottles and nipples shall be maintained at the infant care center. Bottles and nipples used by one infant shall not be shared with or used by another infant unless sterilized.

(h) Infants who are unable to hold a bottle shall be held by a staff person or other adult for bottle feeding. At no time shall a bottle be propped for an infant. An infant shall not be allowed to carry a bottle while ambulatory. A bottle given to an infant able to hold his/her own bottle shall be unbreakable.

(i) High chairs or other appropriate seating equipment shall be used to seat infants during feeding. Infants who are unable to sit unassisted in a high chair or other seating equipment shall be held by a staff person or other adult for feeding.

(j) Bottles, dishes and containers of food brought by the infant's authorized representative shall be labeled with the infant's name and the current date.

(1) Formula in a partially consumed bottle shall be discarded at the end of each day.

(2) Food shall be discarded if not consumed within 72 hours of the date on the container label.

(3) Bottles and dishes provided by the authorized representative shall be rinsed and returned to the authorized representative for sanitizing at the end of each day.

(k) The infant care center shall not serve honey or corn syrup to any infant.

(l) Commercially prepared baby food in jars shall be transferred to a dish before being fed to the infant.

(1) Any food left over in the dish at the end of the meal shall be discarded.

(m) If requested, arrangements for privacy shall be made for any mother who has reached an agreement with the infant care center to nurse her infant in the center.

(n) Bottles and nipples maintained by the infant care center shall be sterilized using any of the following methods after each use:

(1) Boiled for a minimum of five minutes and air–dried; or

(2) Soaked for a minimum of one minute in a sterilizing solution using 1/2 cup of bleach and five gallons of water and air–dried; or

(3) Bottles may be washed and sterilized using a dishwasher.

(o) Infants shall not be bathed in, and diapers or clothing shall not be rinsed in, the food–preparation area.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Amendment filed 4–6–87; operative 5–6–87 (Register 87, No. 16).
2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101428. Infant Care Personal Services.

(a) There shall be a written toilet–training plan for infants being toilet trained.

(1) The infant's authorized representative and the director or the assistant director shall develop the plan.

(2) The plan shall include the following:

(A) Methods of toilet training;

(B) Introduction and use of appropriate training equipment; and

(C) Introduction and use of appropriate clothing.

(3) Infants who are being toilet trained shall not be required to wear diapers unless specifically indicated in the plan.

(4) The center shall follow the plan in toilet training the infant.

(5) Center staff shall have ready access to the toilet–training plan for infants in their care.

(b) The infant shall be kept clean and dry at all times.

(1) The infant care center shall ensure that the infant has sufficient changes of clothing and diapers so that his/her clothing and diapers can be clean and dry at all times.

(2) Each infant's clothing and diapers shall be changed as often as necessary to ensure that the infant is clean and dry at all times.

(c) Soiled or wet clothing or cloth diapers provided by the infant's authorized representative shall be placed in an airtight container and returned to the authorized representative at the end of each day.

(1) The airtight container shall prevent the escape of fluids and odors and be portable enough to give to the authorized representative.

(d) When changing an infant's diapers, the following shall apply:

(1) Each infant shall be diapered on a changing table.

(A) No infant shall be left unattended while on a changing table.

(2) Infants may be diapered on a changing pad placed on the floor that meets the requirements of Section 101439(h).

(3) Soiled disposable diapers shall either be disposed of as recommended on the packaging or placed in an airtight container for daily disposal outside of the center.

(A) Containers shall be sanitized daily.

(4) Soiled cloth diapers shall be placed in an airtight container.

(5) Diapers provided by the center, when soiled, shall be rinsed, washed and sanitized on a daily basis. If a diaper service is utilized, the diapers shall be placed in the diaper service company container, as instructed, for pickup by the diaper service.

(6) Towels and washcloths used for cleaning infants shall not be shared with other infants or staff and shall be washed after each use.

(7) The changing table and changing pads shall be disinfected after each use even when disposal covers are used.

(A) Infant changing tables may be covered with disposable paper towels or a similar covering that shall be discarded after each diaper change.

(B) The floor space used for diaper changing, if soiled, shall be disinfected after each use.

(e) Whenever a potty chair is used, the following requirements shall be met:

(1) The potty chair shall be placed on the floor and used in accordance with the manufacturer's instructions.

(2) After each use, the potty chair shall be promptly emptied into a flushing toilet, and all surfaces shall be thoroughly cleaned and disinfected.

(3) No infant shall be left unattended while on a potty chair or seat.

(f) As part of toilet training, each infant shall receive instruction and assistance in handwashing after use of the toilet.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Amendment filed 4–6–87; operative 5–6–87 (Register 87, No. 16).

2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101429. Responsibility for Providing Care and Supervision for Infants.

(a) In addition to Section 101229, the following shall apply:

(1) Each infant shall be constantly supervised and under direct visual observation and supervision by a staff person at all times. Under no circumstances shall ANY infant be left unattended.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 4–6–87; operative 5–6–87 (Register 87, No. 16).

2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101430. Infant Care Activities.

(a) Notwithstanding Section 101230, the following shall apply:

(1) The infant care center shall develop, maintain and implement a written plan to ensure the provision of indoor and outdoor activities designed to meet the needs of infants, including but not limited to:

(A) Quiet and active play.

(B) Rest and relaxation.

(C) Eating.

(D) Toileting.

(E) Individual attention.

(F) Being held by caregiver.

(2) The center shall ensure the participation of infants in the above activities.

(3) All infants shall be given the opportunity to nap/sleep without distraction or disturbance from other activities at the center whenever the infant desires.

(A) No infant shall be forced to sleep, to stay awake or to stay in the napping area.

1. The center is not prohibited from scheduling nap times for infants over 12 months old.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 4–6–87; operative 5–6–87 (Register 87, No. 16).

2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

3. Editorial correction of NOTE (Register 2002, No. 39).

Article 7. Physical Environment

§ 101438.1. Infant Care General Sanitation.

(a) All items used by pets and animals shall be kept out of the reach of infants.

(b) Each caregiver shall wash his/her hands with soap and water before each feeding and after each diaper change.

(1) Only dispenser soap, such as liquid or powder in an appropriate dispenser, shall be used.

(2) Only disposable paper towels in an appropriate holder or dispenser shall be used for hand drying.

(c) Washing, cleaning and sanitizing requirements for areas used by staff with infants, or for areas that infants have access to, are as follows:

(1) Floors, except those carpeted, shall be vacuumed or swept and mopped with a disinfecting solution at least daily, or more often if necessary.

(2) Carpeted floors and large throw rugs that cannot be washed shall be vacuumed at least daily and cleaned at least every six months, or more often if necessary.

(A) Small rugs that can be washed shall be shaken or vacuumed at least daily and washed at least weekly, or more often if necessary.

Commercial–type cleaning machines commonly available through rental stores, grocery stores, etc., may be used to clean carpets and large rugs. A professional cleaning service may also be hired.

(3) Walls and portable partitions shall be washed with a disinfecting solution at least weekly, or more often if necessary.

(4) The diaper–changing area, where residue is splashed from soiled diapers and items and surfaces are touched by staff during the diaper–changing process, shall be washed and disinfected after each diaper change. Such areas, items and surfaces shall include but not be limited to:

(A) Walls and floors surrounding the immediate diaper–changing area.

(B) Dispensers for talc, lotion, soap and paper towels.

(C) Countertops, sinks, drawers and cabinets.

(5) Sinks used to wash infants, or to rinse soiled clothing or diapers, shall be disinfected after each use.

(d) Objects used by infants that are mouthed shall be washed and disinfected at least daily, or more often if necessary. Such objects shall include, but not be limited to, toys and blankets.

(e) Linens laundered by the center shall be washed and sanitized at least daily, or more often if necessary. Such linens shall include, but not be limited to, bedding, towels and washcloths used on or by infants.

(f) A disinfecting solution, which shall be used after surfaces and objects have been cleaned with a detergent or other cleaner, shall be freshly prepared each day using 1/4 cup of bleach per gallon of water. Commercial disinfecting solutions, including one–step cleaning/disinfecting solutions, may be used in accordance with label directions.

(g) All disinfectants, cleaning solutions and other hazardous materials shall be removed immediately and stored as specified in Section 101238.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Amendment filed 4–6–87; operative 5–6–87 (Register 87, No. 16).

2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101438.2. Outdoor Activity Space for Infants.

(a) In addition to Section 101238.2, the following shall apply:

(b) Outdoor activity space shall be physically separate from space used by children in the child care center and school–age child care center components.

(c) Placement of playpens shall not create hazards to other infants or adults in the play area.

(d) The outdoor activity space shall be equipped with a variety of age–appropriate toys and equipment.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment filed 4–6–87; operative 5–6–87 (Register 87, No. 16).
3. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101438.3. Indoor Activity Space for Infants.

(a) In addition to Section 101238.3, the following shall apply:

(b) Indoor activity space for infants shall be physically separate from space used by children in the child care center and school–age child care center components.

(1) The center may use moveable walls or partitions to separate the above groups in the same room provided that each group has the total amount of square footage in indoor activity space required by this chapter.

(2) Moveable walls or partitions, if used, shall be at least four feet high; shall be constructed of sound–absorbing material; and shall be designed to minimize the risk of injury to infants.

(c) The calculation of indoor activity space for infants shall not include space designated and used for cribs.

(1) The sleeping area for infants shall be physically separate from the indoor activity space. This separation shall be accomplished as specified in (b) above.

(d) The various child care center components in a combination center may share office space, food–preparation space, storage space and any other general–purpose space.

(e) The indoor activity space shall be equipped with a variety of age–appropriate washable toys and equipment.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. Amendment filed 4–6–87; operative 5–6–87 (Register 87, No. 16).
2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101439. Infant Care Center Fixtures, Furniture, Equipment and Supplies.

(a) In addition to Section 101239, and notwithstanding Section 101239(h), the following shall apply:

(b) The infant care center shall be equipped with appropriate furniture and equipment including, but not limited to, cribs, cots or mats; changing tables; and feeding chairs.

(c) The type, height and size of furniture and equipment shall be age appropriate.

(d) Swings, playpens and all such equipment and furniture shall be assembled or installed according to the manufacturer's instructions, and shall be maintained in good repair and safe condition.

(1) Equipment that is purchased already assembled shall not be modified.

(2) A baby walker shall not be allowed on the premises of a child care center in accordance with Health and Safety Code Section 1596.846.

(e) High chairs or low–wheeled feeding tables and any such equipment used for seating an infant shall have broad–base legs.

(1) Seats and backrests shall be made of washable and moisture–resistant material.

(2) An infant shall not be permitted to pull on or climb on or into a high chair.

(3) Whenever an infant is in a high chair, the tray shall be properly latched on both sides.

(4) An infant shall not be permitted to stand up in a high chair.

(5) No infant shall be left unattended while in a high chair.

(f) All such equipment or furniture shall be washed with a detergent/disinfectant after each use as specified in Section 101438.1.

(g) Furniture shall be maintained in good repair and safe condition.

(h) Infant changing tables shall:

(1) Have a padded surface no less than one–inch thick and be covered with washable vinyl or plastic.

(2) Have raised sides at least three inches high.

(3) Be maintained in good repair and safe condition.

(4) While in use, be placed within arm's reach of a sink.

(5) Not be located in the kitchen/food–preparation area.

(i) There shall be a minimum of one handwashing sink to every 15 infants and one potty chair to every five infants being toilet trained.

(1) If sufficient potty chairs are not available for the number of infants being toilet trained, a combination of potty chairs and toilets with training seats may be used to meet the ratio specified in (i) above.

(2) Infants shall not be permitted to play with potty chairs.

(j) Toilets and potty chairs and handwashing sinks for infants shall be in close proximity to indoor and outdoor activity space.

(k) Toy storage containers shall meet the following requirements:

(1) Lids and the hardware used to hinge lids on boxes or chests shall be removed.

(2) All edges and corners shall be rounded and padded.

(3) The container shall be well ventilated.

(4) The container shall not be lockable.

(5) The container shall be maintained in good repair and safe condition.

(A) Metal toy boxes shall not have rough or sharp edges, and wooden toy boxes shall not have splinters and other rough areas.

(*l*) Toys shall be safe, and shall not have sharp points or edges or splinters, or be made of small parts that can be pulled off and swallowed.

(1) The combination of toys shall provide and encourage:

(A) Auditory stimulation.

(B) Visual stimulation.

(C) Tactile stimulation.

(D) Manipulative skills.

(2) Pacifiers shall have a shield or guard large enough so that infants cannot choke on them.

(3) Rattles shall be large enough so that they cannot become lodged in an infant's throat and constructed so that they will not separate into small pieces.

(m) Fixtures, furniture, equipment, supplies and toys shall not be made of or contain toxic materials or substances.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 4–6–87; operative 5–6–87 (Register 87, No. 16).
2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).
3. Editorial correction of subsection (m) (Register 2002, No. 39).

§ 101439.1. Infant Care Center Napping Equipment.

(a) In addition to Section 101239.1, the following shall apply:

(b) A standard size six–year crib or porta–crib meeting the following requirements shall be provided for each infant who is unable to climb out of a crib:

(1) Stacking wall cribs or cribs stacked one on top of another, often referred to as tiered cribs, shall not be permitted.

(2) Cribs shall not limit the ability of staff to see the infant.

(3) Cribs shall not limit the infant's ability to stand upright.

(4) Crib mattresses shall be:

(A) Covered with vinyl or similar moisture–resistant material.

(B) Wiped with a detergent/disinfectant daily and when soiled or wet.

(C) Maintained in a safe condition with no exposed foam, batting or coils.

(5) Cribs equipped with bumper pads shall be covered with vinyl or similar moisture–resistant material. Each crib shall have a sheet to cover the mattress and, depending on the temperature, a sheet and/or blanket to cover the infant.

(A) If bumper pads are used, they shall be installed around the entire inner portion of the crib and tied or snapped into place in at least six places.

(B) The mattress shall be set at its lowest position and the side rail shall be locked in its highest position.

(C) Cribs shall have spaces between crib slats of no more than 2 3/8 inches.

(c) Floor mats or cots that meet the requirements of Section 101239.1(b) shall be provided for all infants who have the ability to climb out of a crib.

(d) Each crib, mat or cot shall be occupied by only one infant at a time.

(e) Each infant's bedding shall be used for him/her only. Such bedding shall be replaced when wet or soiled, or when the crib, mat or cot is to be occupied by another infant.

(1) Bedding shall be changed daily, or more often if required by (e) above.

(A) Soiled bedding shall be placed in a suitable container and made inaccessible to infants until washed or picked up by a commercial laundering service.

(f) Cribs, mats or cots shall be arranged so as to provide a walkway and work space between the cribs, mats or cots sufficient to permit staff to reach each infant without having to step over or reach over any other infant.

(1) Placement of cribs, mats or cots shall not hinder entrance or exit to and from the napping space.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 4–6–87; operative 5–6–87 (Register 87, No. 16).
2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

Subchapter 3. School–Age Child Care Center

Article 1. General Requirements and Definitions

§ 101451. General.

(a) School–age child care centers providing group care to children shall be governed by the provisions specified in this subchapter. In addition, such centers, except where specified otherwise, shall be governed by Chapter 1, Child Care Center General Licensing Requirements.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 2–5–88; operative 3–6–88 (Register 88, No. 8).
2. Amendment of subchapter 3 heading and section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).
3. Editorial correction (Register 2002, No. 39).

§ 101452. Definitions.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 2–5–88; operative 3–6–88 (Register 88, No. 8).
2. Change without regulatory effect amending lettering and correcting cross–references filed 5–28–91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 28).
3. Renumbering of former subsections a.(1)–(2) to portions of section 101152 and repealer of remainder of section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

Article 2. Licensing (Reserved)

Article 3. Application Procedures

§ 101471. School–Age Child Care Center Fire Clearance.

(a) In addition to Section 101171, the following shall apply:

(b) School–age child care centers located on a functioning schoolsite may submit verification of the school fire inspection from the city or county fire department, the district providing fire protection services, or the State Fire Marshal. The school fire inspection shall be accepted as sufficient fire clearance for licensing purposes.

(1) The school fire inspection shall not be accepted if any fire safety deficiencies are indicated.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.95 and 1597.21, Health and Safety Code.

HISTORY

1. New section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101482. Issuance of a School–Age Child Care Center License.

(a) The Department shall issue a license to an applicant in accordance with the provisions of Health and Safety Code Section 1597.21, which apply only to school–age child care centers, after a completed application has been submitted and upon determination that all licensing requirements have been met.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.95 and 1597.21, Health and Safety Code.

HISTORY

1. New section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

Article 4. Enforcement Provisions (Reserved)

Article 5. Administrative Actions (Reserved)

Article 6. Continuing Requirements

§ 101515. School–Age Child Care Center Director Qualifications and Duties.

(a) In addition to Section 101215.1, the following shall apply:

(b) All school–age child care centers shall have a director.

(1) In a combination program that has a school–age child care center component, the director of the child care center component shall maintain ultimate responsibility, in the capacity as director, for the combined program; a separate director for the school–age child care center component is not required.

(A) In a combination program, the director shall designate a fully qualified teacher as specified in Section 101516.2 for the school–age child care center component.

(B) The director of the child care center component within the combination program shall maintain administrative responsibility for the overall program and shall provide direct supervision and guidance to the school–age child care center component.

(c) As an alternative educational prerequisite, any school–age director may substitute six of the units in early childhood education or child development required in Section 101215.1(h)(1)(B) with six units appropriate to elementary school–age children, on a unit–per–unit basis, in any one or a combination of the following:

(1) Recreation, which includes, but is not limited to, art, music and dance relevant to elementary school–age children.

(2) Physical education, which includes, but is not limited to, indoor and outdoor sports activities relevant to elementary school–age children.

(3) Units earned toward an elementary teaching credential.

(d) As an alternative educational prerequisite, the director of a school–age child care center that stands alone may, pursuant to Health and Safety Code Section 1597.21, substitute 20 training hours for each of the required units of education in Section 101215.1(h)(1). (This alternative shall not apply to a director of a combination program that includes a component for school–age children.) Units and training hours may be combined to meet the total educational requirement (15 units or 300 training hours, or any combination thereof).

(1) Health and Safety Code Section 1597.21(b) contains the alternative educational requirements that a director as specified in (d) above may meet.

(2) A director as specified in (d) above may also qualify by possessing any associate of arts or bachelor's degree from an accredited or approved college or university provided at least three units or 60 training hours are in early childhood education, child development or school-age child courses; and three units or 60 training hours are in administration or staff relations.

(3) In accordance with Health and Safety Code Section 1597.21(f), a director as specified in (d) above may use alternative approved sources of education.

(e) Verification of education allowed by Health and Safety Code Section 1597.21 shall be by transcript or certificate (with hours completed shown on the certificate). To verify course or training program approval, a certification on accredited educational institution letterhead that the course or training program has been approved shall accompany the completion certificate. This certification is only necessary for courses or training programs not offered by an accredited educational institution but approved by such an institution.

(f) A director as specified in (d) above may also complete alternative types of experience pursuant to Health and Safety Code Section 1597.21. Such experience shall be verified as having been performed at least three hours per day for a minimum of 100 days in a calendar year.

(1) Health and Safety Code Section 1597.21(e) contains the alternative types of experience that a director as specified in (d) above may complete.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.81, 1596.95, 1597.055 and 1597.21, Health and Safety Code.

HISTORY

1. New section filed 2-5-88; operative 3-6-88 (Register 88, No. 8).
2. Amendment of section heading, section and NOTE filed 9-14-98; operative 11-1-98 (Register 98, No. 38).

§ 101516.2. School-Age Child Care Center Teacher Qualifications and Duties.

(a) In addition to Section 101216.1, the following shall apply:

(b) As an alternative educational prerequisite, a school-age child care teacher may, pursuant to Health and Safety Code Section 1597.21, substitute 20 training hours for each of the required units of education in Section 101216.1. Units and training hours may be combined to meet the total educational requirement (12 units or 240 training hours, or any combination thereof).

(1) Health and Safety Code Section 1597.21(d) contains the alternative educational requirements that a teacher may meet.

(2) In accordance with Health and Safety Code Section 1597.21(f), a teacher may use alternative approved sources of education.

(c) Verification of education allowed by Health and Safety Code Section 1597.21 shall be by transcript or certificate (with hours completed shown on the certificate). To verify course or training program approval, a certification on accredited educational institution letterhead that the course or training program has been approved shall accompany the completion certificate. This certification is only necessary for courses or training programs not offered by an accredited educational institution but approved by such an institution.

(d) A school-age child care center teacher may also complete alternative types of experience pursuant to Health and Safety Code Section 1597.21. To be a fully qualified school-age teacher, such experience shall be verified as having been performed at least three hours per day for a minimum of 50 days in a six-month period.

(1) Health and Safety Code Section 1597.21(e) specifies the alternative types of experience that a teacher may complete.

(e) In a combination program, a fully qualified teacher as specified in Section 101216.1 shall be designated to work closely with the director in planning the daily activities of the school-age child care center component.

(1) The designated teacher shall maintain responsibility for the overall operation of the school-age child care center component under the direction and supervision of the director of the child care center component.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.81, 1597.055 and 1597.21, Health and Safety Code.

HISTORY

1. New section filed 2-5-88; operative 3-6-88 (Register 88, No. 8).
2. Amendment of section heading, section and NOTE filed 9-14-98; operative 11-1-98 (Register 98, No. 38).

§ 101516.5. Teacher-Child Ratio.

(a) In addition to Sections 101216.3(c), (e), (g) and (h), and notwithstanding Sections 101216.3(a), (b), (d) and (f), the following shall apply:

(b) There shall be a staffing ratio of one teacher and one aide present to every 28 children in attendance.

(1) A teacher shall supervise no more than 14 children or with an aide a maximum of 28 children.

(c) Staffing requirements for mixed-age groups shall be determined based on the age of the youngest child in the group.

(d) The director may be counted in the ratio when actually working with a group of children.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.81, 1596.869 and 1597.055, Health and Safety Code.

HISTORY

1. New section filed 2-5-88; operative 3-6-88 (Register 88, No. 8).
2. Amendment of section and NOTE filed 9-14-98; operative 11-1-98 (Register 98, No. 38).

§ 101520. Medical Assessments.

(a) Notwithstanding Section 101220, the following shall apply:

(b) The licensee is not required to document medical assessments on school-age children who are enrolled in a public or private school.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. New section filed 2-5-88; operative 3-6-88 (Register 88, No. 8).
2. Amendment filed 9-14-98; operative 11-1-98 (Register 98, No. 38).

§ 101520.1. Immunizations.

(a) Notwithstanding Section 101220.1, the following shall apply:

(b) The licensee is not required to document immunizations of children also enrolled in a public or private elementary school.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. New section filed 2-5-88; operative 3-6-88 (Register 88, No. 8).
2. Amendment filed 9-14-98; operative 11-1-98 (Register 98, No. 38).

§ 101521. Child's Records.

(a) In addition to Section 101221 (except (b)(8)), the following shall apply:

(b) The licensee shall obtain from the child's authorized representative a health background related to the child's ability/inability to participate in center activities.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. New section filed 2-5-88; operative 3-6-88 (Register 88, No. 8).
2. Amendment filed 9-14-98; operative 11-1-98 (Register 98, No. 38).

§ 101526.1. Daily Inspection for Illness.

(a) In addition to Section 101226.1, the following shall apply:

(b) Upon arrival at or admittance to the center, school-age children shall be observed for signs of illness.

(1) If a child is found to be ill, the procedure(s) specified in Section 101226(a), (b) or (c), or in Section 101226.2, shall be followed.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 2-5-88; operative 3-6-88 (Register 88, No. 8).
2. Amendment filed 9-14-98; operative 11-1-98 (Register 98, No. 38).

§ 101527. Food Service.

(a) In addition to Section 101227, the following shall apply:

(b) Center programs providing before- and/or after-school care shall make available and offer nutritious snacks to children.

NOTE: Authority cited: Section 156.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 2–5–88; operative 3–6–88 (Register 88, No. 8).
2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101529.1. Sign In and Sign Out.

(a) In addition to Section 101229.1, the following shall apply:

(b) Center staff shall sign in a school–age child who arrives at the center on his/her own.

(c) Center staff shall sign out a school–age child whose authorized representative has agreed in writing to allow the child to leave the center on his/her own.

(1) The director and the child's authorized representative shall sign and date the agreement allowing the child to leave the center on his/her own.

(2) The signed agreement shall be filed in the child's record.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1597.05, Health and Safety Code.

HISTORY

1. New section filed 2–5–88; operative 3–6–88 (Register 88, No. 8).
2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101538.2. Outdoor Activity Space for School–Age Children.

(a) In addition to Section 101238.2, the following shall apply:

(b) In combination programs, outdoor activity space provided for school–age child care center children shall be physically separated from space provided for other child care center children.

(1) Physical separation between school–age and other child care center children shall not apply when a planned activity is being conducted.

(c) School–age child care programs that meet the requirements of Health and Safety Code Section 1596.806 are exempt from square–footage requirements for outdoor activity space.

(1) Health and Safety Code Sections 1596.806(b), (b)(1) and (d) pertain to the exemption from square–footage requirements for outdoor activity space for school–age child care programs that meet the requirements of Health and Safety Code Section 1596.806.

(d) The exemption from square–footage requirements for outdoor activity space is only valid if the entire program is operated in accordance with Health and Safety Code Section 1596.806.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.806 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 2–5–88; operative 3–6–88 (Register 88, No. 8).
2. Amendment of section heading and section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101538.3. Indoor Activity Space for School–Age Children.

(a) In addition to Section 101238.3, the following shall apply:

(b) In combination programs, indoor activity space provided for school–age child care center children shall be physically separate from space provided for infant care and child care center children.

(1) Moveable walls or partitions, if used, shall be at least four feet high and shall be safe for use around children.

(2) Physical separation between school–age and other child care center children shall not apply when a planned activity is being conducted.

(c) School–age child care programs that meet the requirements of Health and Safety Code Section 1596.806 are exempt from square–footage requirements for indoor activity space.

(1) Health and Safety Code Sections 1596.806(a), (a)(1), (a)(2) and (d) pertain to the exemption from square–footage requirements for indoor activity space for school–age child care programs that meet the requirements of Health and Safety Code Section 1596.806.

(d) The capacity per room for a school–age child care program that meets the requirements of Health and Safety Code Section 1596.806 shall not exceed the number of children for which a room of this size is commonly approved for school use during the school day.

(e) The exemption from square–footage requirements for indoor activity space is only valid if the entire program is operated in accordance with Health and Safety Code Section 1596.806.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.806 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 2–5–88; operative 3–6–88 (Register 88, No. 8).
2. Amendment of section heading and section filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

§ 101539. Fixtures, Furniture, Equipment and Supplies.

(a) In addition to Section 101239, the following shall apply:

(b) Toilets used by school–age children shall provide individual privacy.

(1) Toilet facilities shall not be used simultaneously by children of both sexes.

(c) School–age child care programs that meet the requirements of Health and Safety Code Section 1596.806 are exempt from toilet requirements.

(1) Health and Safety Code Sections 1596.806(a), (a)(1), (a)(2), (b), (b)(1) and (d) pertain to the exemption from toilet requirements for school–age child care programs that meet the requirements of Health and Safety Code Section 1596.806.

(d) The exemption from toilet requirements is only valid if the entire program is operated in accordance with Health and Safety Code Section 1596.806.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.806 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 2–5–88; operative 3–6–88 (Register 88, No. 8).
2. Amendment filed 9–14–98; operative 11–1–98 (Register 98, No. 38).

Subchapter 4. Child Care Center for Mildly Ill Children

Article 1. General Requirements and Definitions

§ 101551. General.

(a) Child care centers providing care to mildly ill children shall be governed by the provisions specified in this subchapter. In addition, such centers, except where specified otherwise, shall be governed by Chapter 1, Child Care Center General Licensing Requirements; Subchapter 2, Infant Care Centers; and Subchapter 3, School–Age Child Day Care Centers.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. New subchapter 4, article 1 and section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending subchapter 4 heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

§ 101552. Child Care Center for Mildly Ill Children—Definitions.

In addition to Section 101152, the following shall apply:

(a) (Reserved)

(b) (Reserved)

(c) (Reserved)

(d)(1) "Child Care Center for Mildly Ill Children" means any child care center or part of a child care center of any capacity where less than 24–hour per–day nonmedical care and supervision are provided to mildly ill children in a group setting.

(e) (Reserved)

(f) (Reserved)

(g) (Reserved)

(h)(1) "Health Professional" means a physician licensed by the State of California, or a person licensed by the State of California to perform

medical procedures prescribed by a physician. This shall include, but not be limited to, physician's assistants, registered nurses and licensed vocational nurses.

(i) (Reserved)

(j) (Reserved)

(k) (Reserved)

(*l*)(1) "Level I Child Care Center for Mildly Ill Children" means a child care center that provides care to mildly ill children and meets the following criteria:

(A) The program is a component of a licensed child care center that serves well children and only accepts mildly ill children who normally attend the center's component(s) for well children.

(B) The "qualified staff person" is a director as specified in Sections 101615(a) and (b), or a teacher as specified in Section 101616.2(b).

(C) The center may accept children with conditions/symptoms/illnesses as specified in Section 101626.1(e) if a health clearance is obtained as specified in Section 101626.1(f).

(D) The center does not serve children with conditions/symptoms/illnesses as specified in Sections 101626.1(g) and (h), including but not limited to:

1. Diarrhea due to confirmed shigella, salmonella or giardia.

2. Contagious stages of chicken pox, measles and mumps.

(2) "Level II Child Care Center for Mildly Ill Children" means a child care center that provides care to mildly ill children and meets the following criteria:

(A) The program may be licensed as either of the following:

1. A free–standing center that provides care only to mildly ill children.

2. A component of a licensed child care center that serves well children and may accept children who do not normally attend the center's component(s) for well children.

(B) The "qualified staff person" is a licensed health professional.

(C) The center may accept children with conditions/symptoms/illnesses as specified in Section 101626.1(e) if a health clearance is obtained as specified in Section 101626.1(f).

(D) The center may not accept children with the following conditions/symptoms/illnesses except as specified:

1. Diarrhea due to confirmed shigella, salmonella or giardia except as specified in Section 101626.1(i).

2. Contagious stages of chicken pox or mumps except as specified in Section 101626.1(j).

(E) The center does not serve children with conditions/symptoms/illnesses as specified in Section 101626.1(h).

(m)(1) "Mildly Ill Child" means any child who is prohibited from participating in a child care center as defined in Section 101152 due to discomfort, injury or symptoms of illness.

(A) A mildly ill child shall include but not be limited to:

1. A child who would otherwise be cared for and supervised by his/her authorized representative or a person without a medical background.

2. A child who is recovering from an illness such as a cold or the flu, or who needs nonmedical postoperative convalescent care.

(n) (Reserved)

(o) (Reserved)

(p) (Reserved)

(q)(1) "Qualified Staff Person" in a Level I child care center for mildly ill children means a director as specified in Sections 101615(a) and (b), or a teacher as specified in Sections 101616.2(a) and (b).

(2) "Qualified Staff Person" in a Level II child care center for mildly ill children means a licensed health professional.

(r) (Reserved)

(s) (Reserved)

(t) (Reserved)

(u) (Reserved)

(v) (Reserved)

(w) (Reserved)

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.74, 1596.75, 1596.750, 1596.76 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending subsections (d), (*l*)(1)–(m)(A)1. and (q)(1)–(2) filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).
3. Editorial correction of section and HISTORY 2 (Register 2002, No. 39).

Article 2. Licensing

§ 101561. Child Care Center for Mildly Ill Children—Limitations on Capacity and Ambulatory Status.

(a) In addition to Section 101161, the following shall apply:

(b) In a combination child care center with a Level I or Level II component for mildly ill children, facilities and rooms designated for, and used by, mildly ill children shall not be used by children or staff from any other child care center component except as specified in Section 101561(b)(1).

(1) When mildly ill children are not being cared for in the Level I or Level II component, staff and children from another child care center component may use facilities and rooms designated for, and used by, the Level I or Level II component if a qualified staff person approves and sanitation procedures as specified in Section 101638.1 are followed as determined to be necessary by the qualified staff person.

(c) To prevent the spread of illnesses in a combination center with a Level I or Level II component, mildly ill children who begin their day in the Level I or Level II component shall not transfer into any other child care center component for that day unless a qualified staff person approves and the criteria specified in Section 101626.1 are met.

(1) When a child is moved from a Level I or Level II component to another child care center component, the licensee shall document the move in the child's record.

(d) Staff who begin their day in the Level I or Level II component shall not transfer into any other child care center component for that day unless a qualified staff person approves and sanitation procedures as specified in Section 101638.1(d) are followed.

(1) The licensee shall document in the staff file when staff members must follow sanitation procedures as specified in Section 101638.1(d) to prevent the spread of illnesses.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81(b), Health and Safety Code.

HISTORY

1. New article 2 and section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending section heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

Article 3. Application Procedures

§ 101582. Child Care Center for Mildly Ill Children—Issuance of a License.

(a) In addition to Section 101182, the following shall apply:

(b) Child care centers for mildly ill children shall be issued a separate license.

(1) This requirement shall apply even when a child care center for mildly ill children is a Level I or Level II component of a licensed combination child care center.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81 and 1596.95, Health and Safety Code.

HISTORY

1. New article 3 and section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending section heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

Article 4. Administrative Actions (Reserved)

Article 5. Enforcement Provisions (Reserved)

Article 6. Continuing Requirements

§ 101615. Child Care Center for Mildly Ill Children—Director Qualifications and Duties.

(a) In addition to Sections 101215, 101215.1, 101216, 101415 and 101515, the following shall apply:

(b) The director of a Level I or Level II child care center for mildly ill children shall, prior to employment, meet the requirements of Section 101615(b)(1) OR (2).

(1) Complete three postsecondary semester or equivalent quarter units in the identification, transmission, control and care of common childhood illnesses and communicable diseases at an approved or accredited college or university; and, as specified in Health and Safety Code Section 1596.866, complete at least 15 hours of health and safety training, including pediatric cardiopulmonary resuscitation and pediatric first aid.

(A) Notwithstanding Health and Safety Code Section 1596.866(a), the director shall complete 15 hours of health and safety training.

(2) Notwithstanding Sections 101215.1(h) and (*l*), physicians, physician's assistants, registered nurses and licensed vocational nurses who wish to qualify as a director in a Level I or Level II child care center for mildly ill children shall possess a current and active license issued by the appropriate State of California licensing board; and shall:

(A) Complete at least six postsecondary semester or equivalent quarter units in early childhood education or child development at an approved or accredited college or university.

1. This requirement shall not apply provided a fully qualified teacher as specified in Sections 101616.2(a) and (c) is on the premises of the center at all times.

(B) Possess at a minimum one year of experience in pediatric health care obtained within the last five years.

(c) Verification of licensure required in Section 101615(b)(2) shall be included in an employee's personnel file and shall consist of the following:

(1) A photocopy of the license; and

(2) Documentation of written or verbal contact with the appropriate State of California licensing board to verify licensure status.

(d) Original certified copies of transcripts verifying the completion of units required in Sections 101615(b)(1) and (2) shall be filed in an employee's personnel file.

(e) In a combination child care center with a Level I or Level II component for mildly ill children, a separate director is not required for the Level I or Level II component.

(1) The director of the combination center shall designate a fully qualified teacher as specified in Sections 101616.2(a) and (c) for the Level I or Level II component.

(2) The director of the combination center shall maintain ultimate responsibility for the Level I or Level II component and shall provide guidance and supervision to the fully qualified teacher designated for the Level I or Level II component.

(f) Notwithstanding Section 101215.1(f), the following shall apply:

(1) When the director of a child care center for mildly ill children is absent, a fully qualified teacher as specified in Sections 101616.2(a) and (c) shall act as a substitute for the director.

(g) The director of a child care center for mildly ill children shall develop and implement a written training plan for the center's staff and volunteers.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. New articles 4–6 and section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending section heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

§ 101616.2. Child Care Center for Mildly Ill Children—Teacher Qualifications and Duties.

(a) In addition to Sections 101216, 101216.1, 101416.2 and 101516.2, the following shall apply:

(b) Notwithstanding Section 101216.1(b), prior to employment a teacher shall complete three postsecondary semester or equivalent quarter units in the identification, transmission, control and care of common childhood illnesses and communicable diseases; and shall complete three postsecondary semester or equivalent quarter units in early childhood education or child development. These units shall be completed at an approved or accredited college or university.

(1) After employment, a teacher hired under Section 101616.2(b) shall complete at least three units each semester or quarter until a total of 12 postsecondary semester or equivalent quarter units in early childhood education or child development is completed as specified in Section 101216.1(c).

(c) To be a fully qualified teacher in a child care center for mildly ill children, a fully qualified teacher as specified in Section 101216.1(c) shall complete three postsecondary semester or equivalent quarter units in the identification, transmission, control and care of common childhood illnesses and communicable diseases at an approved or accredited college or university; and, as specified in Health and Safety Code Section 1596.866, shall complete at least 15 hours of health and safety training, including pediatric cardiopulmonary resuscitation and pediatric first aid.

(1) Notwithstanding Health and Safety Code Section 1596.866(a), each fully qualified teacher shall complete 15 hours of health and safety training.

(d) Original certified copies of transcripts verifying the completion of the required units shall be filed in each teacher's personnel file.

(e) In a combination center with a Level I or Level II component for mildly ill children, a fully qualified teacher as specified in Sections 101616.2(a) and (c) shall work closely with the director in planning the daily activities of the Level I or Level II component.

(1) Under the guidance and supervision of the director, the fully qualified teacher as specified in Section 101616.2(e) shall be responsible for the overall operation of the Level I or Level II component.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72 and 1596.73, Health and Safety Code.

HISTORY

1. New section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending section heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

§ 101616.3. Child Care Center for Mildly Ill Children—Personnel Requirements.

(a) In addition to Section 101216, the following shall apply:

(b) All staff and volunteers whose duties include the provision of care to, and the supervision and protection of, mildly ill children shall complete training on the practices and procedures of a child care center for mildly ill children.

(1) Training shall be completed within two weeks of a staff member's or volunteer's starting date.

(c) The training plan shall ensure the provision of at least 20 hours of training for each staff member or volunteer and shall include but not be limited to:

(1) Orientation to the center.

(2) Instruction on the identification, transmission and control of communicable diseases, including universal health precautions.

(3) Center practices and procedures for the care of mildly ill children, including those related to:

(A) Handwashing, feeding and diapering.

(B) Special care needs of mildly ill children including, as appropriate, the areas of nutrition and fluids, activities, taking temperatures and administering medications.

(C) Medical emergencies.

(D) Disaster preparedness and evacuation.

(d) Training shall be given by the director and/or a fully qualified teacher.

(e) Completion of training shall be documented in each participant's personnel file.

(1) Documentation shall include the name(s) of the trainer(s), the name(s) of staff members and volunteers receiving training, the date(s) training was completed, the subject area(s) of the training, and the duration of the training (number of hours).

(f) At least one staff member who is trained in pediatric cardiopulmonary resuscitation and pediatric first aid pursuant to Health and Safety Code Section 1596.866 shall be onsite at all times when children are present.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending section heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

§ 101616.5. Chid Care Center for Mildly Ill Children—Teacher–Child Ratios.

(a) Notwithstanding Sections 101216.3, 101416.5 and 101516.5, the following shall apply:

(b) There shall be a ratio of one teacher to every three infants in attendance.

(1) An aide as specified in Section 101216.2 may be substituted for a teacher when all of the following criteria are met:

(A) A fully qualified teacher as specified in Sections 101616.2(a) and (c) is directly caring for and supervising no more than three infants; and has overall responsibility for supervising a total of no more than 12 infants, with the assistance of three aides as specified in Section 101616.5(b)(1)(B).

(B) Each aide is responsible for the direct care and supervision of no more than three infants.

(c) There shall be a ratio of one teacher to every six preschool–age children in attendance.

(1) An aide as specified in Section 101216.2 may be substituted for a teacher to care for preschool–age children when all of the following criteria are met:

(A) A fully qualified teacher as specified in Sections 101616.2(a) and (c) is directly caring for and supervising no more than six preschool–age children; and has overall responsibility for supervising a total of no more than 12 preschool–age children, with the assistance of one aide as specified in Section 101616.5(c)(1)(B).

(B) The aide is responsible for the direct care and supervision of no more than six preschool–age children.

(d) There shall be a ratio of one teacher to every eight school–age children in attendance.

(1) An aide as specified in Section 101216.2 may be substituted for a teacher to care for school–age children when all of the following criteria are met:

(A) A fully qualified teacher as specified in Sections 101616.2(a) and (c) is directly caring for and supervising no more than eight school–age children; and has overall responsibility for supervising a total of no more than 16 school–age children, with the assistance of one aide as specified in Section 101616.5(d)(1)(B).

(B) The aide is responsible for the direct care and supervision of no more than eight school–age children.

(e) Staffing requirements for mixed–age groups of children shall be determined based on the age of the youngest child in the group.

(f) The ratios specified in Sections 101616.5(b), (c), (d) and (e) shall also apply to napping infants, preschool–age children and school–age children except as follows:

(1) One teacher may supervise six napping infants without assistance provided that the remaining staff member(s) necessary to meet the overall ratio specified in Section 101616.5(b) is immediately available at the center.

(2) One teacher may supervise 12 napping preschool–age children without assistance provided that the remaining staff member(s) necessary to meet the overall ratio specified in Section 101616.5(c) is immediately available at the center.

(3) One teacher may supervise 16 napping school–age children without assistance provided that the remaining staff member(s) necessary to meet the overall ratio specified in Section 101616.5(d) is immediately available at the center.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending section heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

§ 101616.8. Child Care Center for Mildly Ill Children—Staffing for Water Activities.

(a) Notwithstanding Section 101216.6, the following shall apply:

(b) Water activities in or near any of the following bodies of water shall not be permitted in a child care center for mildly ill children:

(1) Swimming pool.

(2) Any portable pool or wading pool, no matter how shallow.

(3) Potentially dangerous natural bodies of water including, but not limited to, oceans, lakes, rivers and streams.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending section heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

§ 101619. Child Care Center for Mildly Ill Children—Admission Policies.

(a) In addition to Section 101218, the following shall apply:

(b) The written admission policies for child care centers for mildly ill children shall specify the conditions/symptoms/illnesses for which children will and will not be accepted for care.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending section heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

§ 101620. Child Care Center for Mildly Ill Children—Medical Assessments.

(a) Notwithstanding Section 101220, the following shall apply:

(b) A written medical assessment for the child shall be obtained from the child's authorized representative if a qualified staff person determines that one is necessary based on the nature of the child's symptoms and/or illness.

(1) The medical assessment shall be performed by a physician or other health professional working under the supervision of a physician.

(2) The medical assessment shall include:

(A) Verification that the child's symptoms or illness does not pose a risk to the child or others at the center.

(B) Verification of the child's recent negative test for tuberculosis unless the child is concurrently enrolled in a licensed child care center or a public or private school.

(C) Identification of the child's special requirements.

(D) Identification of prescription and nonprescription medications that the child must take while at the center.

(E) Ambulatory status and restrictions on activities.

(3) Medical assessments shall be filed in the child's record.

(4) When a medical assessment is not required, the licensee shall make a dated notation to that effect in the child's record.

(c) The Department has the authority to require the licensee to obtain a current written medical assessment for any child if such an assessment is necessary to verify the appropriateness of the child's placement.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending section heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

§ 101621. Child Care Center for Mildly Ill Children—Child's Records.

(a) In addition to Section 101221, the following shall apply:

(b) Each child's record shall include:

(1) A copy of the written medical assessment, when one has been required, as specified in Section 101620.

(A) If a medical assessment has not been required, a dated notation to that effect shall be made in the child's record.

(2) A copy of information regarding instances of authorized representative notification as specified in Sections 101626(b) and (b)(1).

(3) A copy of information regarding prescription and nonprescription medications that the child must take while at the center as specified in Section 101226(e).

(4) A copy of the child's plan of care as specified in Section 101626(c).

(5) A copy of the daily inspection form completed by the qualified staff person performing the daily inspection for illness as specified in Section 101626.1(b).

(6) Health clearances, when required, as specified in Section 101626.1(f).

(7) Observations of the child as specified in Section 101626.3(b).

(8) Information regarding any allergies the child may have.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending section heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

§ 101626. Child Care Centers for Mildly Ill Children—Health-Related Services.

(a) In addition to Section 101226, and notwithstanding Section 101226(a), the following shall apply:

(b) If the child's illness or injury worsens to the point that it exceeds the maximum level of care specified in the admission policies and for which the center is licensed, the licensee shall immediately notify the child's authorized representative and require the authorized representative to remove the child from the center.

(1) Notification of the authorized representative shall be recorded in the child's record and shall include the date and time of notification and the name of the qualified staff person making the notification.

(c) A written plan of care shall be developed for each child and shall be updated daily.

(1) This plan shall be completed with the assistance of the child's authorized representative; shall be signed and dated by the authorized representative; and shall be maintained in the child's record.

(2) Each plan of care shall include but not be limited to:

(A) Type and frequency of observations of the child.

(B) Activity level.

(C) Dietary restrictions.

(D) Prescription and nonprescription medications that the child must take while at the center.

(E) Special procedures associated with the child's illness/injury, such as any relating to intake of food and liquid, stool and urine output, or temperature. This requirement may be omitted when the nature of the child's illness/injury warrants doing so.

(F) Developmental activities.

(d) Every center shall have provisions for continuing health consultation from a physician or registered nurse with a current and active license issued by the appropriate State of California licensing board. This health professional shall have pediatric experience/training obtained within the last five years.

(1) Health consultation may be provided by a staff member who is also a health professional as specified in Section 101626(d), as part of his/her staff duties; or by an outside consultant as specified in Section 101626(d).

(2) Health consultation shall include developing written plans and procedures and, if necessary, forms for the following, all of which shall be maintained at the center:

(A) Admissions criteria, center operating policies and procedures, daily inspection procedures, procedures for the surveillance of communicable diseases, and plans for the care of individual children.

(B) Liaison with local health departments.

(C) Recordkeeping and reporting of accidents and illnesses involving staff and children.

(D) Obtaining emergency health care, including provisions for listing emergency telephone numbers.

(E) Administration, handling and storage of medications.

(F) Emergency first-aid procedures and assurance of the availability of staff trained in such procedures.

(G) Establishment of an isolation area and development of related procedures.

(H) Provision of continuing health-care services to children in attendance who do not already have access to such services, which may include making referrals to community resources.

(I) Provision of staff training as specified in Section 101616.2.

(3) If health consultation is provided by an outside consultant, a written contract or letter of agreement between the consultant and the center shall be prepared. This documentation shall be maintained in the center's files.

(4) Each center shall maintain in its files each health consultant's name, address, telephone number, area of specialization and evidence of qualifications.

(A) Evidence of qualifications shall include, but not be limited to, verification of licensure required in Section 101626(d) as demonstrated by the following:

1. A photocopy of the license; and

2. Documentation of written or verbal contact with the appropriate State of California licensing board to verify licensure status.

(5) Health consultation shall occur quarterly or more often, if necessary, and not less than semiannually.

(A) After each consultation, the consultant shall prepare a written report of his/her findings and recommendations. These reports shall be maintained in the center's files.

(B) If consultation is not necessary during a quarter, a notation explaining why shall be made in the center's files.

(e) The licensee shall maintain the most current edition of a manual on the identification and control of communicable diseases.

(1) This manual shall be either the American Academy of Pediatrics' Report of the Committee on Infectious Diseases (Red Book) or another manual approved by the health consultant prior to use.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending section heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).
3. Editorial correction of subsection (a) (Register 2002, No. 39).

§ 101626.1. Child Care Center for Mildly Ill Children—Daily Inspection for Illness.

(a) Notwithstanding Section 101226.1, the following shall apply:

(b) Upon arrival each day at the center, each child shall have a daily inspection for illness to determine if the child is appropriate for placement in the center.

(1) A qualified staff person shall perform and document the completion of the daily inspection for illness.

(A) A qualified staff person for a Level I center shall be a director as specified in Sections 101615(a) and (b), or a teacher as specified in Sections 101616.2(a) and (b).

(B) A qualified staff person for a Level II center shall be a licensed health professional.

(2) As part of the daily inspection for illness, a child's body temperature shall be determined by using a thermometer with a disposable plastic (Probe) cover.

(3) The licensee shall require the child's authorized representative to remain in the center until the daily inspection for illness is completed and the child is accepted for care.

(c) The licensee shall develop and implement a written procedure for completing daily inspections for illness, which shall include developing a form to document that a daily inspection for illness has been completed prior to a child's acceptance for care.

(1) As required by Section 101626(d), the health consultant shall be consulted on the development of the procedure and form specified in Section 101626.1(c).

(d) This subchapter shall not be interpreted to require the exclusion of a child with a chronic condition protected under the Americans With Disabilities Act of 1990 (42 U.S. Code Section 12101 et seq.) unless the child also has a condition/symptom/illness as specified in Sections 101626.1(e), (g) and (h) that would independently exclude the child from care in a center.

(e) Except as specified in Section 101626.1(f), the licensee shall not accept or retain for care any child with any of the following conditions/symptoms/illnesses or combination thereof:

(1) Body temperature of 102 F (38.9 C) (oral) or 103 F (39.4 C) (rectal or by ear) or 101 F (38.3 C) (axillary), or higher.

(A) For an infant two months of age or under, body temperature of 101.5 F (38.6 C) (rectal or by ear) or higher.

(2) Rapid or labored breathing.

(3) Body temperature of 101 F (38.3 C) (oral) or 102 F (38.9 C) (rectal or by ear) or 100 F (37.8 C) (axillary), or higher, with stiff neck, lethargy, irritability or persistent crying.

(4) Asthmatic with upper respiratory infection and coughing that are interfering with the child's ability to drink, talk or sleep.

(5) Undiagnosed acute rash of two weeks or less in duration.

(6) Yellowing of the eyes or skin.

(7) Abdominal pain that is persistent or intermittent.

(8) Vomiting three or more times, or lasting over a six–hour period, or with signs of dehydration.

(9) Diarrhea (that is, five or more stools in an eight–hour period or an increased number of stools compared to the child's normal pattern, and with increased stool water and/or decreased form), in addition to one or more of the following:

(A) Signs of dehydration (for example, no urine produced for an eight–hour period).

(B) Blood or mucus in the stool unless a physician determines that at least one stool culture demonstrates absence of shigella, salmonella, campylobacter, pathogenic E. coli or other pathogens.

(C) Persistence beyond three days.

(10) Severe lethargy.

(11) Open lesions of the skin or mucous membranes.

(12) Other conditions as may be determined by a qualified staff person on an individual basis.

(f) A Level I or Level II center may accept a child with any of the conditions/symptoms/illnesses as specified in Section 101626.1(e) if the licensee has obtained a written health clearance stating that the child has been diagnosed and reexamined; and is not contagious or a health risk to the child or other children in care.

(1) The written health clearance, which shall be kept in the child's record, shall be obtained from a physician or other health professional working under the supervision of a physician.

(2) A licensee may accept a child for care under Section 101626.1(f) upon the verbal approval of a physician or other health professional working under the supervision of a physician if the required written health clearance is obtained within 24 hours.

(A) Receipt of verbal approval as specified in Section 101626.1(f)(2) shall be recorded immediately in the child's record. The notation shall include the name of the physician or other health professional who gave the verbal approval, the date and time the verbal approval was given, and the name of the qualified staff person who made the notation.

(g) The licensee shall not accept or retain for care any child with any of the following conditions/symptoms/illnesses except as specified:

(1) Diarrhea due to confirmed shigella, salmonella or giardia except as specified in Section 101626.1(i).

(2) Contagious stages of chicken pox or mumps except as specified in Section 101626.1(j).

(h) The licensee shall not, under any circumstances, accept or retain for care any child with any of the following conditions/symptoms/illnesses:

(1) Diarrhea due to campylobacter or cryptosporidium.

(2) Contagious stages of measles, rubella, pertussis, diphtheria or tuberculosis.

(3) Untreated infestation (such as head lice, scabies).

(i) A Level II center may accept a child with diarrhea due to confirmed shigella, salmonella or giardia 24 hours after treatment has been initiated if prior approval is obtained from the Department and the following conditions are met:

(1) In addition to Section 101626.1(b), prior to accepting the child the licensee shall obtain documentation from a physician or other health professional working under the supervision of a physician stating that, based on his/her knowledge of the isolation and separation procedures specified below, the child has been diagnosed and poses no serious health risk to the child or other children in care. This documentation shall be kept in the child's record.

(A) Verbal approval, with written follow–up, shall be acceptable if the procedures specified in Section 101626.1(f)(2) are followed.

(2) The licensee shall provide care for children with each illness in a specific area of a room or a room that is physically separate from those used by children with other illnesses.

(A) In addition to separate rooms, physical separation shall include, but not be limited to, moveable partitions and accordian wall dividers.

(3) Each separate area/room shall include:

(A) Separate toilet and handwashing facilities.

(B) Separate equipment and toys.

(C) Notwithstanding Section 101561(d), staff assigned exclusively to the care of children in each area/room.

(4) Sanitation procedures as specified in Section 101638.1 shall be followed.

(A) The licensee shall document, in the staff file, when staff must follow sanitation procedures as specified in Section 101638.1(d) to prevent the spread of illnesses.

(j) A Level II center may accept a child in the contagious stages of chicken pox or mumps if prior approval is obtained from the Department and the following conditions are met:

(1) In addition to Section 101626.1(b), prior to accepting the child the licensee shall obtain documentation from a physician or other health professional working under the supervision of a physician stating that, based on his/her knowledge of the isolation and separation procedures specified below, the child has been diagnosed and poses no serious health risk to the child or other children in care. This documentation shall be kept in the child's record.

(A) Verbal approval, with written follow–up, shall be acceptable if the procedures specified in Section 101626.1(f)(2) are followed.

(2) The child shall be isolated from children with other illnesses and cared for in a separate room with children having the same illness.

(A) Children with chicken pox and mumps shall not be cared for simultaneously in the same isolation room.

(3) Each isolation room shall include:

(A) A separate door to the outside of the center.

(B) Floor–to–ceiling walls.

(C) A separate ventilation system, preferably a positive airflow system.

(D) Separate toilet and handwashing facilities.

(E) Separate equipment and toys.

(F) Notwithstanding Section 101561(d), staff assigned exclusively to the care of children in each isolation room.

(4) Sanitation procedures as specified in Section 101638.1 shall be followed.

(A) The licensee shall document, in the staff file, when staff must follow sanitation procedures as specified in Section 101638.1(d) to prevent the spread of illnesses.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending section heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

§ 101626.2. Child Care Center for Mildly Ill Children—Isolation for Illness.

(a) Notwithstanding Section 101226.2, the following shall apply:

(b) A center shall be equipped with an isolation area to care for any child as specified in Section 101626.2(c).

(1) The isolation area shall be physically separate from the indoor activity area and shall be located to afford easy observation of, and access to, children requiring isolation.

(2) The isolation area shall be equipped with a bed, cot, floor mat or couch for each child requiring isolation; and with a crib, cot or floor mat for each infant requiring isolation.

(3) The isolation area shall not be located in the kitchen, food–preparation or toilet areas.

(4) In combination centers with a Level I or Level II component for mildly ill children, only one isolation area that serves all of the child care center components is required.

(c) A child shall be isolated when any one of the following occurs:

(1) The child's condition worsens enough to warrant notifying the child's authorized representative as specified in Section 101626(b); or

(2) The child is determined to have any one of, or combination of, the conditions/symptoms/illnesses as specified in Section 101626.1(e); or

(3) The child is determined to possibly have one of the communicable diseases as specified in Sections 101626.1(g) and (h).

(d) The center shall ensure the isolation of each child within the isolation area when more than one child is present in the isolation area.

(e) Children in the isolation area shall be under the constant observation of a teacher who is present in the isolation area itself.

(f) A child shall remain in the isolation area only until the child's authorized representative can remove the child from the center as specified in Section 101626(b).

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending section heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

§ 101626.3. Child Care Center for Mildly Ill Children—Observation of the Child.

(a) In addition to Section 101226.3(a), and notwithstanding Section 101226.3(b), the following shall apply:

(b) Any changes in the child's behavior or any signs of the child's illness worsening shall be reported to the child's authorized representative and recorded in the child's record on the day they occur.

(c) If indicated by the nature of the child's illness at any time when the child is in care, staff shall record daily observations of the child's behavior and symptoms, including the date and time of the observation(s). The record of the observation(s) shall also include, but not be limited to, the following as appropriate:

(1) Behavior and activities, such as the child's state of alertness, type of complaints, frequency and length of sleep, and pattern of rest and play.

(2) Temperature.

(A) Any child with a body temperature of 100 F (37.8 C) (oral) or 101 F (38.3 C) (rectal or by ear) or 99 F (37.2 C) (axillary), or higher, shall have his/her body temperature taken during the day as follows:

1. For a child 0–1 years of age, within one hour of the original temperature; for a child 0–5 years of age, within two hours of the original temperature; and for a child 6–18 years of age, within three hours of the original temperature.

2. The child's temperature shall also be taken at intervals thereafter depending on the child's observed behavior and symptoms as specified in Section 101626.3(c).

(B) Body temperature shall be determined by using a thermometer with a disposable plastic (Probe) cover.

(3) Breathing.

(4) Vomiting.

(5) Amount of food and fluid intake.

(6) Color, consistency and number of bowel movements.

(7) Frequency of urination.

(A) Notations shall be made at least every four hours if the child has any of the following conditions/symptoms/illnesses:

1. Decreased appetite.
2. Vomiting.
3. Diarrhea as specified in Section 101626.1(e)(9).

(d) Recorded observations shall be in accordance with the center's admission policies and agreements; and in accordance with plans and procedures as specified in Section 101626, including the plan of care as specified in Section 101626(c).

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending section heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

§ 101627. Child Care Center for Mildly Ill Children—Food Service.

(a) In addition to Sections 101227 and 101427, the following shall apply:

(b) For mildly ill children, individual meals and snacks shall be prepared in accordance with the requirements of each child's admission agreement and plan of care.

(c) For mildly ill infants, individual meals and snacks shall be prepared in accordance with the requirements of each infant's admission agreement, feeding plan and plan of care.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending section heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

§ 101628. Child Care Center for Mildly Ill Children—Personal Services.

(a) In addition to Section 101428, the following shall apply:

(b) Only disposable diapers shall be used unless cloth diapers are specified in the infant's or child's plan of care.

(c) If cloth diapers are used, they shall be used with an outer waterproof cover.

(1) When cloth diapers are changed, the soiled diaper and outer cover shall be removed at the same time and replaced with a clean diaper and outer cover.

(d) Notwithstanding Section 101428(d)(5), soiled or wet clothing or cloth diapers shall not be rinsed in a sink.

(1) Soiled or wet clothing or cloth diapers provided by the child's authorized representative shall be handled as specified in Section 101428(c).

(2) Soiled cloth diapers provided by the center shall be laundered and sanitized daily. If a diaper service is utilized, the diapers shall be placed in the diaper service company container, as instructed, for pickup by the diaper service.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending section heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

§ 101629.1. Child Care Center for Mildly Ill Children—Sign in and Sign out.

(a) Notwithstanding Section 101226.1(b)(2)(A), and in addition to Section 101229.1, the following shall apply:

(b) The licensee shall require that each child be signed in and out by his/her authorized representative.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending section heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

§ 101630. Child Care Center for Mildly Ill Children—Activities.

(a) Notwithstanding Section 101230, the following shall apply:

(b) The licensee shall develop, maintain and implement a written plan to ensure the provision of indoor and outdoor activities designed to meet the needs of mildly ill children. Such activities shall include but not be limited to:

(1) Quiet and active play.

(2) Rest and relaxation.

(3) Eating.

(4) Toileting.

(5) Individual attention.

(6) Infants being held by care providers.

(c) The licensee shall ensure the participation of mildly ill children in the activities specified in Section 101630(b) as appropriate.

(d) Each child, unless it is not appropriate because of the nature of his/her illness, shall be given the opportunity to nap/sleep whenever he/she wishes without being disturbed by other activities at the center.

(1) No child shall be forced to sleep, to stay awake or to stay in the napping area.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending section heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

Article 7. Physical Environment

§ 101638.1. Child Care Center for Mildly Ill Children—General Sanitation.

(a) Notwithstanding Section 101438.1, the following shall apply:

(b) Children shall not have access to items used by pets and animals.

(c) Staff and children shall wash their hands at appropriate times, including but not limited to:

(1) Before and after eating or handling food.

(2) After toileting or changing diapers.

(3) Whenever hands are contaminated with bodily fluids.

(d) The following handwashing procedures shall be used:

(1) Use soap and running water.

(A) Only dispenser soap, such as liquid or powder in an appropriate dispenser, shall be used.

(2) Rub hands together vigorously, washing all surfaces including wrists, backs of hands, between fingers and under fingernails.

(3) Rinse hands well.

(4) Dry hands with disposable paper towels.

(A) Only disposable paper towels in an appropriate holder or dispenser shall be used.

(5) When a water faucet can be turned off only by using hand controls, the faucet shall be turned off using a disposable paper towel instead of with bare hands only.

(6) The procedures specified in Sections 101638.1(d)(1) through (5) shall be posted at sinks used by staff.

(e) Washing, cleaning and sanitizing requirements for areas used by staff and children, or for areas that children have access to, shall include:

(1) Floors, except those carpeted, shall be vacuumed or swept and mopped with a disinfecting solution at least daily, or more often if necessary.

(2) Carpeted floors and large throw rugs that cannot be washed shall be vacuumed at least daily and cleaned at least every six months, or more often if necessary.

(A) Small rugs that can be washed shall be shaken or vacuumed at least daily and washed at least weekly, or more often if necessary.

(3) Walls and portable partitions shall be washed and disinfected at least monthly, or more often if necessary.

(4) When infants are in care, the diaper–changing area, where residue is splashed, shall be washed and disinfected after each diaper change. The immediate floor and wall areas shall also be kept clean.

(5) Sinks used to wash infants shall be washed and disinfected after each use.

(6) Sinks used for food preparation shall not be used to wash infants or to wash fecally contaminated hands.

(f) Objects used by children shall be washed and disinfected at least daily, or more often if necessary. Such objects shall include, but not be limited to, toys and blankets.

(g) Linens laundered by the center shall be washed and sanitized at least daily, or more often if necessary. Such linens shall include, but not be limited to, bedding, towels and washcloths used on or by children.

(1) Linens or clothing used on or by any child shall not be used on or by any other child without first being laundered and sanitized.

(h) A disinfecting solution, which shall be used after surfaces and objects have been cleaned with a detergent or other cleaner, shall be freshly prepared each day using 1/4 cup of bleach per gallon of water. Commercial disinfecting solutions, including one–step cleaning/disinfecting so-

lutions, shall be permitted and shall be used in accordance with label directions.

(i) All disinfectants, cleaning solutions, poisons and other hazardous materials shall be stored as specified in Section 101238.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. New article 7 and section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending section heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

§ 101638.2. Child Care Center for Mildly Ill Children—Outdoor Activity Space.

(a) Notwithstanding Sections 101238.2(a), (e) and (f), the following shall apply:

(b) There shall be at least 20 square feet of outdoor activity space per child based on the total licensed capacity.

(c) In combination centers with a Level I or Level II component for mildly ill children, outdoor activity space for mildly ill children shall be physically separate from outdoor activity space for well children.

(1) Physical separation shall include but not be limited to:

(A) Fencing; or

(B) Supervision; or

(C) Scheduling.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending section heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

§ 101638.3. Child Care Center for Mildly Ill Children—Indoor Activity Space.

(a) In addition to Section 101238.3, the following shall apply:

(b) In combination centers with a Level I or Level II component for mildly ill children, indoor activity space for the Level I or Level II component shall be physically separate from indoor activity space for any other child care center component.

(1) Physical separation shall include but not be limited to:

(A) Moveable partitions.

(B) Accordian wall dividers.

(C) Separate rooms.

(c) In the designated napping area, there shall be at least 15 square feet of indoor space for each child's bed, cot, floor mat or couch; and for each infant's crib, cot or floor mat.

(1) The square–footage requirement in Section 101638.3(c) shall be in addition to the requirement of 35 square feet of indoor activity space per child as specified in Section 101238.3.

(2) Napping equipment, unless separated by screens, shall be placed at least three feet apart when in use.

(3) The designated napping area shall be separate from the indoor activity area.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending section heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

§ 101639. Child Care Center for Mildly Ill Children—Fixtures, Furniture, Equipment and Supplies.

(a) In addition to Sections 101239, 101439 and 101539, the following shall apply:

(b) In combination centers with a Level I or Level II component for mildly ill children, all fixtures, furniture, equipment and supplies designated for use in caring for mildly ill children, or for use by mildly ill children, shall not be shared with or used by any other child care center component unless the criteria specified in Section 101561(b)(1) are met.

(c) Beds, cots, floor mats or couches, as well as blankets and pillows, shall be available and accessible for use by mildly ill children whenever mildly ill children are present.

(d) Cribs, cots or floor mats, as well as blankets, shall be available and accessible for use by mildly ill infants whenever mildly ill infants are present.

(1) Mildly ill infants shall not have access to pillows.

(e) Notwithstanding Section 101239(h), the total licensed capacity of a center shall not exceed 10 mildly ill children for every toilet and handwashing sink.

(1) Toilet and handwashing facilities used by mildly ill children shall not be shared with or used by any other child care center component unless the criteria specified in Section 101561(b)(1) are met.

(2) Toilets used by mildly ill school–age children shall provide for individual privacy.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.806 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending section heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

§ 101639.1. Child Care Center for Mildly Ill Children—Napping Equipment.

(a) In addition to Sections 101239.1 and 101439.1, the following shall apply:

(b) In combination centers with a Level I or Level II component for mildly ill children, napping equipment designated for use in caring for mildly ill children, or for use by mildly ill children, shall not be shared with or used by any other child care center component unless the criteria specified in Section 101561(b)(1) are met.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).
2. Change without regulatory effect amending section heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

§ 101639.2. Child Care Center for Mildly Ill Children—Drinking Water.

(a) Notwithstanding Section 101239.2, the following shall apply:

(b) Each child shall use a cup or bottle labeled with his/her name, or a single–use disposable cup.

(c) Drinking water from a noncontaminating fixture or container shall be readily available to children both indoors and in the outdoor activity area.

(d) Each child shall be free to drink water as he/she wishes unless it is not appropriate because of the nature of the child's illness.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. New section filed 7–10–95; operative 8–9–95 (Register 95, No. 28).

2. Change without regulatory effect amending section heading and section filed 10–26–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

Chapter 3. Family Day Care Homes for Children

Article 1. General Requirements and Definitions

§ 102351.1. Specific Exemption.

The provisions of Chapter 1, General Requirements, shall not apply to family child care homes.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

HISTORY

1. Editorial correction renumbering and amending former division 6, chapter 8.5 (sections 88001–88070, not consecutive) to new division 12, chapter 3 (articles 1–4 and 6, sections 102351.1–102423, not consecutive) filed 7–1–85; designated effective 7–1–85 (Register 85, No. 27).
2. Change without regulatory effect amending section filed 5–7–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 20).
3. Amendment filed 10–6–97; operative 11–5–97 (Register 97, No. 41).

§ 102352. Definitions.

(a)(1) "Adult" or "Substitute Adult" means a person who is 18 years of age or older.

(2) "Applicant" means any person or persons making an application for a license to operate a family child care home.

(3) "Assistant Provider" means a person at least 14 years of age who is primarily involved in caring for children during the hours that the home provides care.

(b) (Reserved)

(c)(1) "California Clearance" means an individual has no felony or misdemeanor convictions reported by the California Department of Justice. However, the individual may have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.

(2) "Capacity" means the maximum number of children for whom care is authorized at any one time.

(3) "Child" means a person, including an infant, who has not yet reached his or her eighteenth birthday.

(4) "Child Abuse Central Index" means the California Department of Justice maintained statewide, multi–jurisdictional, centralized index of child abuse investigation reports. These reports pertain to alleged incidents of physical abuse, sexual abuse, mental/emotional abuse and/or severe neglect. Each child protection agency (police, sheriff, county welfare and probation departments) is required by law to forward to the California Department of Justice a report of every child abuse incident it investigates, unless an incident is determined to be unfounded.

(5) "Child Abuse Central Index Clearance" means that the California Department of Justice has conducted a name search of the index and the search did not result in a match or the search resulted in a match but the California Department of Social Services determined after an investigation that the allegation of child abuse or neglect was not substantiated.

(6) "Completed Application" means that all required information and documentation has been provided to the Department, including the completed application form and, for a large family child care home, a fire clearance; and that a home visit has been completed.

(7) "Conviction" means:

(A) A criminal conviction in California, or

(B) Any criminal conviction of another state, federal, military or other jurisdiction, which if committed or attempted in California, would have been punishable as a crime in California.

(8) "Criminal Record Clearance" means an individual has a California clearance and an FBI clearance.

(d)(1) "Deficiency" means any failure to comply with any provision of the California Child Day Care Act (Health and Safety Code, Section 1596.70 et seq.) and or regulations adopted by the Department pursuant to the Act.

(2) "Department" means the State Department of Social Services. This term supersedes the term "licensing agency" as used in previous regulations.

(3) "Director" means the Director of Social Services.

(e) (Reserved)

(f)(1) "Family Day Care" or "Family Child Care" means regularly provided care, protection and supervision of children, in the caregiver's own home, for periods of less than 24 hours per day, while the parents or authorized representatives are away. The term "Family Child Care" supersedes the term "Family Day Care" as used in previous regulations.

(A) "Small Family Child Care Home" means a home that provides family child care for up to six children, or for up to eight children if the criteria in Section 102416.5(b) are met. These capacities include children under age 10 who live in the licensee's home.

(B) "Large Family Child Care Home" means a home that provides family child care for up to 12 children, or for up to 14 children if the criteria in Section 102416.5(c) are met. These capacities include children under age 10 who live in the licensee's home and the assistant provider's children under age 10.

(2) "Federal Bureau of Investigation (FBI) Clearance" means an individual has no felony or misdemeanor convictions reported by the FBI. The individual may also have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.

(g) (Reserved)

(h)(1) "Home" means the licensee's residence as defined by Government Code Section 244.

(i)(1) "Infant" means a child who has not yet reached his or her second birthday.

(j) (Reserved)

(k) (Reserved)

(*l*)(1) "License" means a written authorization by the Department or licensing agency to operate a family day care home.

(2) "Licensee" means an adult licensed to operate a Family Day Care Home and who is primarily involved in providing care for the children during the hours that the home provides care.

(3) "Licensing agency". See definition for Department.

(m)(1) "Medical Professional" means an individual who is licensed or certified in California to perform the necessary medical procedures within his/her scope of practice. This includes, but is not limited to, Medical Doctor (MD), Registered Nurse (RN) and Licensed Vocational Nurse (LVN).

(n) (Reserved)

(o) (Reserved)

(p)(1) "Parent" or "Authorized Representative" means any person or entity authorized by law to act on behalf or any child. Such person or entity may include but not be limited to a minor's parent, a legal guardian, a conservator or a public placement agency.

(2) "Provider" means anyone providing care to children as authorized by these regulations and includes the licensee, assistant provider or substitute adult.

(q) (Reserved)

(r)(1) "Rehabilitation" means the effort to reestablish good character since the date of the last conviction, including, but not limited to, education, counseling or therapy, training, stable employment, restitution, remorse, changes in lifestyle, or community service.

(2) "Relative" means spouse, parent, stepparent, son, daughter, brother, sister, stepbrother, stepsister, half–brother, half–sister, uncle, aunt, niece, nephew, first cousin or any such person denoted by the prefix "grand" or "great" or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.

(s)(1) "Simplified Exemption" means an exemption granted on the Department's own motion, as authorized in Health and Safety Code Sec-

tion 1596.871(c)(3), if the individual's criminal history meets specific criteria established by Department regulation.

(t) (Reserved)

(u) (Reserved)

(v) (Reserved)

(w) (Reserved)

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.74, 1596.75, 1596.77, 1596.770, 1596.78, 1596.791, 1596.81(b), 1597.44 and 1597.465, Health and Safety Code; and Section 244, Government Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Change without regulatory effect amending lettering and correcting cross-references filed 5-28-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 28).
3. Change without regulatory effect amending subsection (d)(1) and (2) filed 5-7-92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 20).
4. Editorial correction of printing error in subsection a.(1) (Register 92, No. 24).
5. Amendment of section and NOTE filed 10-6-97; operative 11-5-97 (Register 97, No. 41).
6. Amendment filed 7-14-2003 as an emergency; operative 7-16-2003 (Register 2003, No. 29). A Certificate of Compliance must be transmitted to OAL by 11-13-2003 or emergency language will be repealed by operation of law on the following day.
7. Amendment refiled 11-12-2003 as an emergency; operative 11-12-2003 (Register 2003, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-11-2004 or emergency language will be repealed by operation of law on the following day.
8. Amendment refiled 3-11-2004 as an emergency; operative 3-11-2004 (Register 2004, No. 11). A Certificate of Compliance must be transmitted to OAL by 7-9-2004 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 3-11-2004 order, including further amendment of section, transmitted to OAL 7-9-2004 and filed 8-20-2004 (Register 2004, No. 34).

Article 2. Licensing

§ 102357. Operation Without a License.

(a) If the Department has reason to believe that family child care is being provided without a license, the licensing agency shall:

(1) Conduct a site visit to:

(A) Determine whether the home is operating without a license.

(B) Determine whether continued operation of the facility will be dangerous to the health and safety of the children in care.

(2) Notify the unlicensed provider in writing of the requirements for such licensure.

(3) Issue a Notice of Operation in Violation of Law if it is found and documented that continued operation of the family child care home will be dangerous to the health and safety of the children. Situations endangering the health and safety of the children shall include, but not be limited to:

(A) Evidence of physical or mental abuse.

(B) Children left unattended or left with a minor.

(C) Clear evidence of unsanitary conditions.

(D) Fire safety/fire hazards.

(E) Unfenced or accessible pools or other bodies of water.

(F) Hazardous physical plant.

(4) Issue a Notice of Operation in Violation of Law if the unlicensed provider does not apply for a license within 15 working days from the date of notification.

(b) The Department shall have the authority to issue an immediate civil penalty pursuant to Section 102393 and Section 1596.891 of the Health and Safety Code which provides:

(1) A person who violates Section 1596.80 of the Health and Safety Code may be liable for an immediate assessment of civil penalties in the amount of two hundred dollars ($200) per day.

(2) The penalty specified in Section 102357(b)(1) shall be imposed if the operator of an unlicensed facility refuses to seek licensure or the operator seeks licensure and is denied but continues to operate.

(c) Section 102357 shall be applied pursuant to Section 1596.892 of the Health and Safety Code.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1597.61 and 1596.81(b), Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. New subsections (b) and (c) filed 8-17-88; operative 9-16-88 (Register 88, No. 34).
3. Change without regulatory effect amending subsection (b) and adopting subsections (b)(1) and (b)(2) filed 5-7-92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 20).
4. Amendment of subsections (a), (a)(3) and (b) filed 10-6-97; operative 11-5-97 (Register 97, No. 41).

§ 102358. License Exemptions.

(a) Licensure is required before family child care is provided except in the following situations relative to family child care homes as specified in Health and Safety Code Section 1596.792:

(1) Any family day care home providing care for the children of only one family in addition to the operator's own children.

(2) Any cooperative arrangement between parents for the care of their children where no payment is involved and the arrangement meets all of the following conditions:

(A) In a cooperative arrangement, parents shall combine their efforts so that each parent, or set of parents, rotates as the responsible care giver with respect to all the children in the cooperative.

(B) Any person caring for children shall be a parent, legal guardian, stepparent, grandparent, aunt, uncle, or adult sibling of at least one of the children in the cooperative.

(C) There can be no payment of money or receipt of in-kind income in exchange for the provision of care. This does not prohibit in-kind contributions of snacks, games, toys, blankets for napping, pillows and other materials parents deem appropriate for their children. It is not the intent of this paragraph to prohibit payment for outside activities, the amount of which may not exceed the actual cost of the activity.

(D) No more than 12 children are receiving care in the same place at the same time.

(3) Any arrangement for the receiving and care of children by a relative.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.792 and 1596.81(b), Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Change without regulatory effect amending subsection (a) and adopting subsections (a)(1)-(D)(3) filed 5-7-92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No 20).
3. Change without regulatory effect amending subsection (a) filed 1-5-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 1).
4. Amendment of subsection (a) filed 10-6-97; operative 11-5-97 (Register 97, No. 41).

§ 102359. Advertisements and License Number

(a) Licensees shall reveal each facility license number in all advertisements, publications, or announcements made with the intent to attract clients.

(1) Advertisements, publications, or announcements subject to the requirements of Section 102359(a) include, but are not limited to, those contained in the following:

(A) Newspaper or magazine.

(B) Consumer report.

(C) Announcement of intent to commence business.

(D) Telephone directory yellow pages.

(E) Professional or service directory.

(F) Radio or television commercial.

(b) Correspondence shall be considered a form of advertisement if the intent is to attract clients.

[The next page is 1457.]

NOTE: Authority cited: Section 1596.81(a), Health and Safety Code. Reference: Section 1596.861, Health and Safety Code.

HISTORY

1. New section filed 4–24–91; operative 5–24–91 (Register 91, No. 24).
2. Change without regulatory effect amending subsection (a) and adopting subsections (a)(1)–(F) filed 5–7–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 20).
3. Repealer of subsection (c) filed 10–6–97; operative 11–5–97 (Register 97, No. 41).

Article 3. Application Procedure

§ 102368. License.

(a) The license shall be available in the facility upon request.

(b) The license shall not be transferred to other individuals or locations.

(c) Any person 18 years of age or over may apply for a license regardless of age, sex, race, religion, color, political affiliation, national origin, disabilities, marital status, actual or perceived sexual orientation, or ancestry.

(d) As a condition of licensure, the licensee shall comply with the requirements for training in preventive health practices, including pediatric cardiopulmonary resuscitation and pediatric first aid, as specified in Health and Safety Code Section 1596.866.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81(b), 1596.866 and 1597.57, Health and Safety Code; and Section 51, Civil Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment of subsection (c), new subsection (d), and amendment of NOTE filed 10–6–97; operative 11–5–97 (Register 97, No. 41).
3. Change without regulatory effect amending subsection (c) and NOTE filed 12–10–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 50).

§ 102369. Application for Initial License.

(a) To apply for a license to operate a family child care home, an applicant shall file a written application with the Department, on forms provided or approved by the Department.

(b) The applicant shall provide all of the following information at the time of submission of the application:

(1) Name, address, telephone number and confirmation that the applicant is 18 years of age or over.

(2) Age and number of children to whom care will be provided.

(3) Name and age of every person residing in the home where care is to be provided.

(4) A statement that the applicant will comply with all regulations and laws governing family child care homes.

(5) When applying for a license as a large family child care home, substantiation that the provider has at least one year of experience as a regulated small family child care home operator; or one year of experience as an administrator or director of, or as a teacher at, a licensed child care center.

(A) Waiver of this requirement shall be considered by the director upon finding that the applicant has sufficient qualifying experience.

(6) A brief statement confirming that the applicant is financially secure to operate a family child care home for children. The Department shall not require any other specific or detailed financial disclosure.

(7) Evidence that the small family child care home contains a fire extinguisher and smoke detector device which meet standards established by the State Fire Marshal under Section 1597.45(d) of the Health and Safety Code or evidence that the large family child care home meets the standards established by the State Fire Marshal under Section 1597.46(d) of the Health and Safety Code.

(8) Pursuant to Section 102370(a), the fingerprints of any applicant for a family day care home license, and the following adults:

(A) Any person, other than a child, residing in the facility.

(B) Any person who provides care and supervision to the children.

(C) Any staff person or employee who has contact with the children.

(9) Evidence of a current tuberculosis clearance, not more than one year prior to or seven days after initial presence in the home, for any adult in the home during the time that children are under care.

(10) Name, address and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's Office having jurisdiction where the Family Day Care Home is located.

(c) Prior to filing an application, the applicant shall attend an orientation provided by the licensing agency.

(1) The orientation shall cover, but not be limited to, the following areas:

(A) Completion of the application for license.

(B) Scope of operation subject to regulation by the Department.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.877, 1597.45, 1597.46, 1597.54 and 1597.57, Health and Safety Code.

HISTORY

1. Amendment of subsection (b) filed 12–30–87 as an emergency; operative 1–1–88 (Register 88, No. 2). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5–2–88.
2. Certificate of Compliance transmitted to OAL 4–28–88 and filed 5–31–88 (Register 88, No. 30).
3. Amendment of subsection (b) and adoption of subsection (c) filed 10–9–91; operative 11–8–91 (Register 92, No. 8).
4. Change without regulatory effect amending section filed 5–7–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 20).
5. Amendment of subsection (b)(7) and NOTE filed 9–26–95; operative 10–26–95 (Register 95, No. 39).
6. Amendment of subsections (a), (b)(4), (b)(5), (b)(6), (b)(7) and (b)(9) filed 10–6–97; operative 11–5–97 (Register 97, No. 41).
7. Amendment filed 5–18–2000 as an emergency; operative 5–18–2000 (Register 2000, No. 20). Pursuant to Section 73 of Senate Bill 933, Chapter 311, Statutes of 1998 a Certificate of Compliance must be transmitted to OAL by 11–14–2000 or emergency language will be repealed by operation of law on the following day.
8. Editorial correction of HISTORY 7 (Register 2000, No. 38).
9. Certificate of Compliance as to 5–18–2000 order transmitted to OAL 11–14–2000 and filed 12–19–2000 (Register 2000, No. 51).

§ 102369.1. Pilot Project Registration.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Section 1597.54, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing Section 102369.1 (Register 86, No. 29).

§ 102370. Criminal Record Clearance.

(a) Prior to the Department issuing a license, the applicant(s) and all adults residing in the home shall obtain a California criminal record clearance or exemption.

(b) The following individuals are exempt from the requirement to submit fingerprints:

(1) A volunteer who is a relative, legal guardian, or foster parent of a child in the facility.

(2) A volunteer that provides time–limited specialized services if all of the following apply:

(A) The volunteer is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption.

(B) The volunteer spends no more than 16 hours per week at the facility.

(C) The volunteer is not left alone with children in care.

(3) A student who is enrolled or participating at an accredited educational institution if all of the following apply:

(A) The student is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption.

(B) The facility has an agreement with the educational institution concerning the placement of the student.

(C) The student spends no more than 16 hours per week at the facility.

(D) The student is not left alone with the children in care.

(4) A third–party repair person, or similar retained contractor, if all of the following apply:

(A) The individual is hired for a defined, time–limited job.

(B) The individual is not left alone with children.

(C) When children are present in the room in which the repairperson or contractor is working, a staff person who has a criminal record clearance or exemption is also present.

(5) A medical professional, as defined in Section 102352(m)(1), who holds a valid license or certification from the individual's governing California medical care regulatory entity if all of the following apply:

(A) The criminal record of the individual has been cleared as a condition of licensure or certification by the individual's California medical care regulatory entity.

(B) The individual is providing time-limited specialized clinical care or services.

(C) The individual is providing care or services within the individual's scope of practice.

(D) The individual is not a community care facility licensee and is not employed, retained, or contracted by the licensee.

(6) Employees of a licensed home health agency who have a contract with a child's parent or guardian and are in the facility at the request of that parent or guardian.

(A) The exemption shall not apply to an individual who is employed, retained or contracted by the licensee.

(7) An attendant or facilitator for a child with a developmental disability who is visiting the client or providing direct care and supervision to the child.

(A) The exemption shall not apply to an individual who is employed, retained or contracted by the licensee.

(c) All individuals subject to a criminal record review shall be fingerprinted and sign a Criminal Record Statement (LIC 508 [Rev. 1/03]) under penalty of perjury.

(1) A person signing the LIC 508 must:

(A) Declare whether he/she has been convicted of a crime, other than a minor traffic violation as specified in Section 102370(g) regardless of whether the individual was granted a pardon for the conviction, received an expungement pursuant to Penal Code 1203.4 or the individual's record was sealed as a result of a court order.

(B) If convicted of a crime other than a minor traffic violation as specified in Section 102370(g), provide information regarding the conviction.

(2) The licensee shall submit these fingerprints to the California Department of Justice along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, or comply with Section 102370(j) prior to the individual's employment, residence, or initial presence in the child care home.

(A) Fingerprints shall be submitted to the California Department of Justice by the licensee or sent by electronic transmission to the California Department of Justice by a fingerprinting entity approved by the California Department of Social Services.

(B) A licensee or an applicant for a license may not submit, or enable another to submit under the licensee's or the applicant's authority, the fingerprints of any person who does not, or whom the licensee or applicant reasonably believes will not reside, provide care and supervision to, or have contact with clients at the licensee's or applicant's facility.

1. If the Department determines that the licensee or applicant has violated Section 102370(c)(2)(B), the Department may immediately cease processing criminal record and Child Abuse Central Index clearances for the facility until the licensee or applicant complies with this section or a disciplinary proceeding is completed.

2. The licensee shall then submit the fingerprints to the California Department of Justice for processing.

(d) All individuals subject to a criminal record review pursuant to Health and Safety Code Section 1596.871 shall prior to working, residing or volunteering in a licensed facility:

(1) Obtain a California clearance or a criminal record exemption as required by the Department or

(2) Request a transfer of a criminal record clearance as specified in Section 102370(j) or

(3) Request and be approved for a transfer of a criminal record exemption, as specified in Section 102370.1(p), unless, upon request for a transfer, the Department permits the individual to be employed, reside or be present at the facility.

(e) Violation of Section 102370(d) will result in a citation of a deficiency and an immediate assessment of civil penalties of one hundred dollars ($100) per violation per day for a maximum of five (5) days by the Department.

(1) Subsequent violations within a twelve (12) month period will result in a civil penalty of one hundred dollars ($100) pre violation per day for a maximum of thirty (30) days.

(2) The Department may assess civil penalties for continued violations as permitted by Health and Safety Code Section 1596.99.

(f) Violation of Section 102370(d) may result in a denial of the license application or suspension and/or revocation of the license.

(g) If the criminal record transcript of any individuals specified in the Health and Safety Code Section 1596.871(b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for a crime other than a minor traffic violation for which the fine was less than $300, and an exemption pursuant to Section 102370.1(a) has not been granted, Department shall take the following actions:

(1) For initial applicants, denial of the application.

(2) For current licensees, the Department may institute an administrative action, including, but not limited to, revocation of the license.

(3) For current employees, exclude the affected individual pursuant to Health and Safety Code Section 1596.8897, and deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.

(4) For individuals residing in the facility, licensee or employee, exclusion of the affected individual pursuant to Health and Safety Code Section 1596.8897, and denial of the application or revocation of the license, if the individual continues to provide services and/or reside in the facility.

(h) If the conviction was for another crime, except a minor traffic violation, the Department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(i) A licensee or applicant for a license may request a transfer of a criminal records clearance from one state licensed facility to another, or from TrustLine to a state licensed facility by providing the following documents to the Department:

(1) A signed Criminal Background Clearance Transfer Request, LIC 9182 (Rev. 4/02).

(2) A copy of the individual's:

(A) Driver's license, or

(B) Valid identification card issued by the Department of Motor Vehicles, or

(C) Valid photo identification issued by another state or the United States government if the individual is not a California resident.

(3) Any other documentation required by the Department (e.g., LIC 508, Criminal Record Statement [Rev. 1/03] and job description).

(j) A criminal record clearance may be transferred between state and county licensing agencies or between county licensing agencies provided:

(1) The transfer is to the same facility type.

(2) The individual and the licensing agency that processed the clearance submit a Substitute Agency Notification Request (BCII 9002) to the receiving licensing agency.

(3) The receiving licensing agency submits the Substitute Agency Notification Request (BCII 9002) to the Department of Justice.

(4) The Department of Justice approves the request and returns a completed BCII 9002 to the receiving agency.

(k) The licensee shall maintain documentation of criminal record clearances or criminal record exemptions of employees, volunteers that require fingerprinting and non-client adults residing in the facility.

(l) Documentation shall be available for inspection by the Department.

(l) The Department may seek verification from a law enforcement agency or court of an individual's criminal record as reported to the Department from any member of the public or affected individual.

(l) Upon obtaining confirmation from a law enforcement agency or court of the offense, the Department shall proceed as if this criminal record information was provided by the California Department of Justice.

(n) If the Department determines that any licensee or individual specified in Health and Safety Code Section 1596.871(b) is arrested for a crime for which, if convicted, an individual is not eligible, by law, to receive an exemption, pending completion of its investigation into the facts underlying the arrest, the Department may take the following actions as it deems necessary:

(1) If the arrested individual is a licensee, the Department may notify the licensee, by telephone or in writing, to immediately cease operation for up to 30 days.

(2) If the individual arrested is not a licensee, the Department may notify the licensee and the individual associated with the facility, by telephone or in writing, that the individual may not be present in the facility for up to 30 days.

(3) If the individual arrested is the licensee's spouse or a dependent adult that resides in the licensee's home, the Department may notify the licensee, by telephone or in writing, to immediately cease operation for up to 30 days.

(o) After the Department notifies the licensee, pursuant to Section 102370(n)(1) or (n)(3), or the individual pursuant to Section 102370(n)(2), he or she may present a written appeal that:

(1) he or she is not the individual who was arrested,

(2) he or she has not been arrested for a crime that by law an individual is not eligible to receive an exemption, or

(3) he or she was arrested for a crime that by law an individual is not eligible to receive an exemption but the charges have been dropped or reduced to a crime that by law an individual would be eligible to receive an exemption.

The appeal shall contain the licensee's or individual's current address and telephone number. After the Department receives the appeal and any supporting documentation, it shall review the appeal and notify the licensee or individual of its decision within five (5) working days.

(p) Should the Department determine at any time during the 30 days referred to in Sections 102370(n)(1), (n)(2), and (n)(3) that the criminal charges have been dropped or reduced to a charge for a crime that by law an individual would be eligible to receive an exemption, the Department shall immediately rescind the notice.

(q) Nothing in this section shall be interpreted to supercede the Department's authority under Sections 1596.886 and 1596.8897 of the Health and Safety Code.

NOTE: Authority cited: Sections 1596.81 and 1596.98(c), Health and Safety Code. Reference: Sections 1596.871, 1596.99 and 1597.59, Health and Safety Code.

HISTORY

1. Change without regulatory effect adding new subsections (a), (c), (d), (e) and (f), and relettering of (a) to (b) filed 5–7–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 20).
2. Amendment of subsections (a), (c) and (d)(1) filed 10–6–97; operative 11–5–97 (Register 97, No. 41).
3. Amendment filed 5–18–2000 as an emergency; operative 5–18–2000 (Register 2000, No. 20). Pursuant to Section 73 of Senate Bill 933, Chapter 311, Statutes of 1998 a Certificate of Compliance must be transmitted to OAL by 11–14–2000 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 2000, No. 38).
5. Certificate of Compliance as to 5–18–2000 order, including further amendment of section, transmitted to OAL 11–14–2000 and filed 12–19–2000 (Register 2000, No. 51).
6. Editorial correction of subsection (e) (Register 2001, No. 43).
7. Amendment filed 7–14–2003 as an emergency; operative 7–16–2003 (Register 2003, No. 29). A Certificate of Compliance must be transmitted to OAL by 11–13–2003 or emergency language will be repealed by operation of law on the following day.
8. New subsections (n)–(q) and amendment of NOTE filed 7–24–2003 as an emergency; operative 7–24–2003 (Register 2003, No. 30). A Certificate of Compliance must be transmitted to OAL by 11–21–2003 or emergency language will be repealed by operation of law on the following day.
9. Amendment refiled 11–12–2003 as an emergency; operative 11–12–2003 (Register 2003, No. 46). A Certificate of Compliance must be transmitted to OAL by 3–11–2004 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 7–24–2003 order transmitted to OAL 11–21–2003 and filed 12–30–2003 (Register 2004, No. 1).
11. Editorial correction of HISTORY 12 (Register 2004, No. 11).
12. Amendment refiled 3–11–2004 as an emergency; operative 3–11–2004 (Register 2004, No. 11). A Certificate of Compliance must be transmitted to OAL by 7–9–2004 or emergency language will be repealed by operation of law on the following day.
13. Certificate of Compliance as to 3–11–2004 order, including further amendment of section, transmitted to OAL 7–9–2004 and filed 8–20–2004 (Register 2004, No. 34).
14. Amendment of subsection (e), new subsection (e)(1), subsection renumbering, amendment of newly designated subsection (e)(2), repealer of subsection (h), new subsections (j)–(j)(4), subsection relettering and amendment of NOTE filed 7–11–2006; operative 8–10–2006 (Register 2006, No. 28).

§ 102370.1. Criminal Record Exemptions.

(a) The Department will notify a licensee to act immediately to remove from the facility or bar from entering the facility any person described in Sections 102370.1(a)(1) through (5) below while the Department considers granting or denying an exemption. Upon notification, the licensee shall comply with the notice.

(1) Any person who has been convicted of, or is awaiting trial for, a sex offense against a minor;

(2) Any person who has been convicted of a felony;

(3) Any person who has been convicted of an offense specified in Sections 243.4, 273a, 273d, 273g, or 368 of the Penal Code or any other crime specified in Health and Safety Code Section 1596.871(c)(2);

(4) Any person who has been convicted of any crime specified below:

(A) Battery

(B) Shooting at Inhabited Dwelling

(C) Corporal Injury on Spouse/Cohabitant

(D) Discharging Firearm with Gross Negligence

(E) Exhibiting Weapon/Firearm

(F) Threat to Commit a Crime Resulting in Gross Bodily Injury or Death

(G) Criminal Threat to Harm or Injure Another Person

(H) Cruelty to Animals

(I) Willful Harm or Injury to Child; or

(5) Any other person ordered to be removed by the Department.

(6) The Department may assess a civil penalty of $50 per day for failure to comply with Section 102370.1(a).

(b) In addition to the requirements of Section 102370.1(a), the licensee must:

(1) Return the confirmation of removal form that is sent by the Department, within five (5) days of the date of the form, that confirms under penalty of perjury that the individual has been removed from the facility.

(A) Confirmation must be made on either a Removal Confirmation — Exemption Needed, LIC 300A (Rev. 9/03), Removal Confirmation — Denial, LIC 300B (Rev. 9/03), Removal Confirmation — Rescinded, LIC 300C (Rev. 9/03), or Removal Confirmation — Nonexemptible, LIC 300D (Rev. 9/03).

(B) The Department may assess a civil penalty of $50 per day for failure to comply with Section 102370.1(b).

(2) Provide a copy of the Addendum to Notification of Parent's Rights (Regarding Removal/Exclusion) (LIC 995B Rev. 05/03) to one parent or authorized representative of every child currently in care within one day of receipt of the addendum from the Department.

(A) Upon notice from the Department that the individual may return to the facility, provide a copy of the Addendum to Notification of Parent's Rights (Regarding Reinstatement) (LIC 995C Rev. 05/03) to one parent or authorized representative of every child in care within one day of receipt of the notice and addendum from the Department.

(3) Obtain a signed and dated receipt from one parent or authorized representative that acknowledges that he/she was given a copy of the addendum specified in 102370.1(b)(2) and (2)(A).

(4) Maintain copies of the signed and dated receipt required in Section 102370.1(b)(3) in each child's file. Copies shall be made available to the Department upon request.

(c) If it is found that the applicant or any other person residing at or regularly in the home during the hours of care, has ever been convicted of a crime other than a minor traffic infraction as specified in Section 102370.1(b), the application for licensure shall be denied or the license shall be revoked, unless the following apply:

(1) Such person has been granted a full and unconditional pardon for the offense, by the governor.

(2) After a review of the criminal record transcript, the Department may grant an exemption from Section 102370(d) if:

(A) The applicant/licensee requests an exemption for himself or herself, or

(B) The applicant/licensee requests an exemption in writing for a individual associated with the facility, or

(C) The applicant/licensee chooses not to seek an exemption on the affected individual's behalf, and the affected individual requests an individual exemption in writing, and

(D) The affected individual presents substantial and convincing evidence satisfactory to the Department that he/she has been rehabilitated and presently is of such good character as to justify being issued or maintaining a license, employment or residence in a licensed facility.

(3) The Department shall consider factors, including, but not limited to, the following, as evidence of good character and rehabilitation:

(A) The nature of the offense committed including, but not limited to, whether it involved violence or a threat of violence to others.

(B) Time elapsed since the offense was committed, and the number of offenses.

(C) Circumstances surrounding the commission of the crime that would demonstrate the unlikelihood of repetition.

(D) Activities since conviction, such as employment, education, or participation in therapy, that would indicate rehabilitation.

(E) Character references.

1. All character references shall be on a Reference Request form (LIC 301E — Exemptions [Rev. 7/03]).

(F) A Certificate of Rehabilitation from a Superior Court.

(G) Evidence of honesty and truthfulness as revealed in exemption application documents.

1. Documents include, but are not limited to:

a. A Criminal Record Statement (LIC 508, Criminal Record Statement [Rev. 1/03]) and

b. The individual's written statement/explanation of the conviction and the circumstances about the arrest.

(H) Evidence of honesty and truthfulness as revealed in exemption application interviews and conversations with the Department.

(4) The Department shall also consider the following factors in evaluating a request for an exemption:

(A) Facility and type of association.

(B) The individual's age at the time the crime was committed.

(d) To request a criminal record exemption, licensee or license applicants must submit information that indicates that the individual meets the requirements of Section 102370.1(c)(2)(D). The Department will notify the licensee or license applicant and the affected individual, in concurrent, separate notices, that the affected individual has a criminal conviction and needs to obtain a criminal record exemption.

(1) The notice to the affected individual shall include a list of the conviction(s) that the Department is aware of at the time the notice is sent that must be addressed in an exemption request.

(2) The notice will list the information that must be submitted to request a criminal record exemption.

(3) The information must be submitted within forty-five (45) days of the date of the Department's notice.

(A) Individuals who submit a criminal record exemption request shall cooperate with the Department by providing the information required by Section 102370.1(c)(2)(D) and any information requested by the Department, including, but not limited to, police reports and certified court documents to process the exemption request, pursuant to Section 102370.1(c)(3).

(B) If the individual for whom the criminal record exemption is requested is an employee or resident other than a spouse or dependent family member and the licensee/license applicant does not submit the information listed in the Department's written notice within 45 days of the date of the notice, the Department may cease processing the exemption request and close the case.

(C) If the individual for whom the criminal record exemption is requested is an applicant, licensee, spouse or dependent family member and the licensee/license applicant does not submit the information listed in the Department's written notice within 45 days of the date of the notice, the Department may deny the exemption request.

(D) Individuals may request a criminal record exemption on their own behalf if the licensee or license applicant:

1. Chooses not to request the exemption and

2. Chooses not to employ or terminates the individual's employment after receiving notice of the individual's criminal history, or

3. Removes the individual who resides in the facility after receiving notice of the individual's criminal history.

(e) The Department may deny an exemption request if:

(1) The licensee and/or the affected individual fails to provide documents requested by the Department or

(2) The licensee and/or the affected individual fails to cooperate with the Department in the exemption process.

(f) The reasons for any exemption granted or denied shall be in writing and kept by the Department.

(g) The Department has the authority to grant a criminal record exemption that places conditions on the individual's continued licensure, and employment or presence in a licensed facility.

(h) It shall be conclusive evidence that the individual is not of such good character as to justify issuance of an exemption if the individual:

(1) Makes a knowingly false or misleading statement regarding:

(A) Material relevant to their application for a criminal record clearance or exemption,

(B) His or her criminal record clearance or exemption status to obtain employment or permission to be present in a licensed facility, after the Department has ordered that they be excluded from any or all licensed facilities, or

(C) His or her criminal record clearance or exemption status in order to obtain a position with duties that are prohibited to him/her by a conditional exemption; or

(2) Is on probation or parole.

(A) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the Department may, in its discretion, grant a criminal record exemption notwithstanding Section 102370.1(h)(2).

(i) The Department shall consider granting a criminal record exemption for an individual when the individual's criminal record history meets all of the applicable criteria specified in Sections 102370.1(i)(1) through (6) and the individual provides the Department with substantial and convincing evidence of good behavior as specified in Section 102370.1(c)(2)(D). For purposes of this section, a violent crime is a crime that, upon evaluation of the code section violated and/or the reports regarding the underlying offense, presents a risk of harm or violence.

(1) The individual has been convicted of one nonviolent misdemeanor, and one year has lapsed since completing the most recent period of incarceration or probation.

(2) The individual has been convicted of two or more nonviolent misdemeanors and four consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.

(3) The individual has been convicted of one or more violent misdemeanors and 15 consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.

(4) The individual has been convicted of one nonviolent felony and four consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.

(5) The individual has been convicted of two or more nonviolent felonies and ten consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.

(6) The individual has not been convicted of a violent felony.

(7) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the period of lapsed time required in Sections 102370.1(i)(1) through (5) above shall begin from the last date of conviction(s).

(j) It shall be a rebuttable presumption that an individual is not of such good character as to justify the issuance of an exemption if the individual fails to meet the requirements specified in Sections 102370.1(i)(1) through (6).

(k) The Department shall not grant an exemption if the individual has a conviction for any offense specified in Section 1596.871(f) of the Health and Safety Code.

(*l*) The Department shall consider granting a simplified criminal record exemption if the individual has the criminal history profile outlined in Sections 102370.1(*l*)(1) through (4) below:

(1) The individual does not have a demonstrated pattern of criminal activity;

(2) The individual has no more than one conviction;

(3) The conviction is a misdemeanor and is a crime that is nonviolent and does not pose a risk of harm to an individual; and

(4) It has been at least five consecutive years since the completion of the most recent period of incarceration or supervised probation.

(m) At the Department's discretion, an individual who is otherwise eligible for a simplified exemption may be required to go through the standard exemption process if the Department determines such action will help to protect the health and safety of clients.

(n) If the Department denies or cannot grant a criminal record exemption the Department will:

(1) For initial applicants, deny the application.

(2) For current licensees, the Department may institute an administrative action, including, but not limited to, revocation of the license.

(3) For current employees, exclude the affected individual pursuant to Health and Safety Code Section 1596.8897, deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.

(4) For individuals residing in the facility or the licensee, exclude the affected individual pursuant to Health and Safety Code Section 1596.8897, deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.

(5) Exemption denial notices shall specify the reason the exemption was denied.

(o) If a request for an exemption has been denied, the individual shall be excluded for a period of two years unless the individual has been convicted of a crime for which no exemption may be granted pursuant to Section102370.1(m). If a request for an exemption has been denied based on a conviction of a crime for which no exemption may be granted, the individual shall be excluded for the remainder of the individual's life.

(1) If the Department determines during the review of an exemption request, that the individual was denied an exemption for a conviction of a crime for which an exemption may be granted within the preceding two years, the Department shall cease any further review of the request until two years have elapsed from the date of the denial. In cases where the individual requested a hearing on an exemption denial, the Department shall cease review of the request for an exemption until two years from the effective date of the decision and order of the Department upholding the denial. In cases where the individual submitted a petition for reinstatement or reduction in penalty pursuant to Government Code Section 11522 that was denied, the Department shall cease review of the request for an exemption until two years from the effective date of the decision and order of the Department denying the petition.

(2) An exclusion order based solely upon a denied exemption shall remain in effect and the individual shall not be employed in or present in a licensed facility or certified home, unless either a petition or an exemption is granted.

(3) If an individual who has previously been denied an exemption reapplies after the relevant time period described in Section 102370.1(o)(1) above, the Department may, in accordance with the provisions in Section 102370.1 et seq., grant or deny the subsequent request for an exemption.

(4) If an individual submits a petition pursuant to Government Code Section 11522 for reinstatement or reduction of penalty for an exclusion, an individual must submit his/her fingerprints through an electronic fingerprinting system approved by the Department and submit to the Department a statement of the reason why the individual should be permitted to work or be present in a facility, along with all information required of an individual requesting a criminal record exemption as provided in Section 102370.1. If it is determined, based upon information provided by the Department of Justice, that the individual has been convicted of a crime for which no exemption may be granted, the petition shall be denied. An individual's failure to submit fingerprints or other information as requested by the Department, shall be grounds for denial of the petition. The burden shall be on the petitioner to prove sufficient rehabilitation and good character to justify the granting of the petition.

(p) A licensee or applicant for a license may request a transfer of a criminal record exemption from one state licensed facility to another by providing the following documents to the Department:

(1) A signed Criminal Record Exemption Transfer Request, LIC 9188 (Rev. 9/03).

(2) A copy of the individual's:

(A) Driver's license, or

(B) Valid identification card issued by the Department of Motor Vehicles, or

(C) Valid photo identification issued by another state or the United States Government if the individual is not a California resident.

(3) Any other documentation required by the Department (e.g., LIC 508, Criminal Record Statement [Rev. 1/03] and job description).

(q) The Department may consider factors including, but not limited to, the following in determining whether or not to approve the transfer of an exemption from one facility to another:

(1) The basis on which the Department granted the exemption;

(2) The nature and frequency of client contact in the new position;

(3) The category of facility where the individual wishes to transfer;

(4) The type of clients in the facility where the individual wishes to transfer;

(5) Whether the exemption was appropriately evaluated and granted in accordance with existing exemption laws or regulations; or

(6) Whether the exemption meets current exemption laws or regulations.

(r) If the Department denies the individual's request to transfer a criminal record exemption, the Department shall provide the individual and the licensee with written notification that states the Department's decision and informs the affected individual of their right to an administrative hearing to contest the Department's decision.

(s) A criminal record exemption may be transferred between state and county licensing agencies or between county licensing agencies provided:

(1) The transfer is to the same facility type.

(2) The individual and the licensing agency that processed the exemption submit a Substitute Agency Notification Request (BCII 9002) to the receiving licensing agency.

(3) The receiving licensing agency submits the Substitute Agency Notification Request (BCII 9002) to the Department of Justice.

(4) The Department of Justice approves the request and returns a completed BCII 9002 to the receiving agency.

(5) The licensing agency approves the exemption transfer after considering the following:

(A) The basis on which the licensing agency granted the exemption;

(B) Whether the exemption was appropriately evaluated and granted.

(t) At the Department's discretion, an exemption may be rescinded if it is determined that:

(1) The exemption was granted in error or

(2) The exemption does not meet current exemption laws or regulations or

(3) The conviction for which an exemption was granted subsequently becomes non–exemptible by law.

(u) The Department may rescind an individual's criminal record exemption if the Department obtains evidence showing that the individual engaged in conduct which is inconsistent with the good character requirement of a criminal record exemption, as evidenced by factors including, but not limited to, the following:

(1) Violations of licensing laws or regulations;

(2) Any conduct by the individual that indicates that the individual may pose a risk to the health and safety of any individual who is or may be a client;

(3) Nondisclosure of a conviction or evidence of lack of rehabilitation that the individual failed to disclose to the Department, even if it occurred before the exemption was issued; or

(4) The individual is convicted of a subsequent crime.

(v) If the Department rescinds an exemption the Department shall:

(1) Notify the licensee and the affected individual in writing; and

(2) Initiate an administrative action.

(w) If the Department learns that an individual has been convicted of a crime after obtaining a criminal record clearance or exemption, the Department, at its sole discretion, may initiate an administrative action to protect the health and safety of clients.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.871, 1596.885, 1596.8897 and 1597.59(b), Health and Safety Code; and *Gresher v. Anderson* (2005) 127 Cal. App. 4th 88.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment of subsection (a) filed 6–5–87; operative 7–5–87 (Register 87, No. 25).
3. Change without regulatory effect amending subsection (a) and adoption of subsections (b) and (c) filed 5–7–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 20).
4. Amendment of section heading and section filed 5–18–2000 as an emergency; operative 5–18–2000 (Register 2000, No. 20). Pursuant to Section 73 of Senate Bill 933, Chapter 311, Statutes of 1998 a Certificate of Compliance must be transmitted to OAL by 11–14–2000 or emergency language will be repealed by operation of law on the following day.
5. Editorial correction of HISTORY 4 (Register 2000, No. 38).
6. Certificate of Compliance as to 5–18–2000 order transmitted to OAL 11–14–2000 and filed 12–19–2000 (Register 2000, No. 51).
7. Amendment of section and NOTE filed 7–14–2003 as an emergency; operative 7–16–2003 (Register 2003, No. 29). A Certificate of Compliance must be transmitted to OAL by 11–13–2003 or emergency language will be repealed by operation of law on the following day.
8. Amendment of section and NOTE refiled 11–12–2003 as an emergency; operative 11–12–2003 (Register 2003, No. 46). A Certificate of Compliance must be transmitted to OAL by 3–11–2004 or emergency language will be repealed by operation of law on the following day.
9. Amendment of section and NOTE refiled 3–11–2004 as an emergency; operative 3–11–2004 (Register 2004, No. 11). A Certificate of Compliance must be transmitted to OAL by 7–9–2004 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 3–11–2004 order, including further amendment of section, transmitted to OAL 7–9–2004 and filed 8–20–2004 (Register 2004, No. 34).
11. Amendment of section and NOTE filed 7–11–2006; operative 8–10–2006 (Register 2006, No. 28).

§ 102370.2. Child Abuse Central Index.

(a) Prior to issuing a license for a family child care home, the Department shall check the Child Abuse Central Index (CACI) pursuant to Health and Safety Code Section 1596.877 and Penal Code Section 11170(b)(3). The Department shall check the CACI for the applicant(s) and all individuals subject to a criminal record review pursuant to Health and Safety Code Section 1596.871(a) and shall have the authority to approve or deny a facility license, employment, residence or presence in the facility based on the results of the review.

(1) The applicant shall submit the Child Abuse Central Index checks (LIC 198A [3/99] for state licensed facilities and LIC 198 [02/01] for county licensed facilities) for all individuals required to be checked directly to the California Department of Justice at the same time that the individual's fingerprints are submitted for a criminal background check as required by Section 102370(c)(2).

(A) Individuals who have submitted the Child Abuse Central Index check (LIC 198A [3/99]) for state licensed facilities and LIC 198 [4/99] for county licensed facilities) with fingerprints on or after January 1, 1999 need not submit a new check if the individual can transfer their criminal record clearance or exemption pursuant to Section 80019(e) or Section 80019.1(f).

(2) The Department shall investigate any reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. The Department shall not deny a license based upon a report from the CACI unless the Department substantiates the allegation of child abuse.

(b) Subsequent to licensure, all individuals subject to a criminal record review, pursuant to Health and Safety Code Section 1596.871 shall complete a Child Abuse Central Index check (LIC 198A [3/99]) for state licensed facilities and LIC 198 [02/01] for county licensed facilities), prior to employment, residence or initial presence in the family child care home.

(1) The licensee shall submit the Child Abuse Central Index checks (LIC 198A [3/99] for state licensed facilities and LIC 198 [02/01] for county licensed facilities) directly to the California Department of Justice at the same time that the individual's fingerprints are submitted for a criminal background check as required by Section 102370(c)(2).

(A) Individuals who have submitted the Child Abuse Central Index check (LIC 198A [3/99]) for state licensed facilities and LIC 198 [4/99] for county licensed facilities) with fingerprints on or after January 1, 1999 need not submit a new check if the individual can transfer their criminal record clearance or exemption pursuant to Section 80019(e) or Section 80019.1(f).

(2) The Department shall check the Child Abuse Central Index (CACI) pursuant to Penal Code Section 11170(b)(3). The Department shall investigate any reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. The Department shall not deny a license or take any other administrative action based upon a report from the CACI unless the Department substantiates the allegation of child abuse.

(3) The Department shall investigate any subsequent reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. The Department shall not revoke a license or take any other administrative action based upon a report from the CACI unless the Department substantiates the allegation of child abuse.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81(b) and 1596.871, Health and Safety Code

HISTORY

1. New section filed 5–18–2000 as an emergency; operative 5–18–2000 (Register 2000, No. 20). Pursuant to Section 73 of Senate Bill 933, Chapter 311, Statutes of 1998 a Certificate of Compliance must be transmitted to OAL by 11–14–2000 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2000, No. 38).
3. Certificate of Compliance as to 5–18–2000 order, including further amendment of subsection (a)(1), transmitted to OAL 11–14–2000 and filed 12–19–2000 (Register 2000, No. 51).

4. Amendment of subsection (b)(1) filed 7–14–2003 as an emergency; operative 7–16–2003 (Register 2003, No. 29). A Certificate of Compliance must be transmitted to OAL by 11–13–2003 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsection (b)(1) refiled 11–12–2003 as an emergency; operative 11–12–2003 (Register 2003, No. 46). A Certificate of Compliance must be transmitted to OAL by 3–11–2004 or emergency language will be repealed by operation of law on the following day.
6. Amendment of subsection (b)(1) refiled 3–11–2004 as an emergency; operative 3–11–2004 (Register 2004, No. 11). A Certificate of Compliance must be transmitted to OAL by 7–9–2004 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 3–11–2004 order, including further amendment of subsection (b), transmitted to OAL 7–9–2004 and filed 8–20–2004 (Register 2004, No. 34).

§ 102371. Fire Safety Clearance.

(a) A fire safety clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal shall be required for a large family child care home.

(1) For purposes of Section 102371, "nonambulatory persons" includes the following persons who would be unable to leave a building unassisted under emergency conditions:

(A) Any person who is unable, or likely to be unable, to physically and mentally respond to a sensory signal approved by the State Fire Marshal, or an oral instruction relating to fire danger; and

(B) Persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs.

(2) The Director of Social Services or his/her designated representative, in consultation with the Director of Developmental Services or his/her designated representative, shall determine the ambulatory or nonambulatory status of persons with developmental disabilities.

(3) The Director of Social Services or his/her designated representative shall determine the ambulatory or nonambulatory status of all other disabled persons placed after January 1, 1984, who are not developmentally disabled.

(b) A fire clearance shall not be required for a small family child care home.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.78, 1596.81(b), 1597.44, 1597.45, 1597.465, 13131, 13131.3 and 13143, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment filed 12–30–87 as an emergency; operative 1–1–88 (Register 88, No. 2). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5–2–88.
3. Certificate of Compliance transmitted to OAL 4–28–88 and filed 5–31–88 (Register 88, No. 30).
4. Change without regulatory effect amending subsection (a) and adopting subsections (a)(1)–(b)(2) filed 5–7–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 20).
5. Amendment of subsections (a) and (b), repealer of subsections (b)(1) and (b)(2), and amendment of NOTE filed 10–6–97; operative 11–5–97 (Register 97, No. 41).

§ 102383. Term of a License.

(a) Except as specified in Section 102368, a license remains in effect until it is:

(1) Forfeited or surrendered as specified in Health and Safety Code Section 1596.858.

(2) Suspended or revoked as specified in Section 102393.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Section 1596.858, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending section filed 5–7–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 20).
2. Amendment of section heading, repealer and new section, and amendment of NOTE filed 10–6–97; operative 11–5–97 (Register 97, No. 41).

§ 102383.1. Expiration of Registration.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81(b) and 1597.62, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing Section 102383.1 (Register 86, No. 29).

§ 102384. Licensing Fees.

(a) An applicant or licensee shall be charged fees as specified in Health and Safety Code Section 1596.803:

(b) When a licensee moves a facility from one location to another, the relocation fee shall be as specified in Health and Safety Code Section 1596.803(b)(1)(A).

(1) To qualify for the relocation fee, the following shall apply:

(A) The licensee has notified the Department before actually relocating the facility.

(B) The facility category remains the same when relocating the facility.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.803, Health and Safety Code.

HISTORY

1. New section filed 10–6–97; operative 11–5–97 (Register 97, No. 41).
2. Change without regulatory effect amending section heading, section and NOTE filed 6–15–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 24).

Article 4. Enforcement Provisions

§ 102391. Inspection Authority of the Department.

(a) Any duly authorized officer, employee, or agent of the Department shall, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, the regulations adopted by the Department governing family child care homes, and in accordance with Section 102396.

(b) The licensee shall permit the Department to inspect the family child care home, and to privately interview children or staff, to determine compliance with or to prevent violations of family child care laws or regulations. The Department shall exercise this authority as specified in Health and Safety Code Section 1596.8535(a).

(c) The licensee shall permit the Department to inspect any part of the family child care home in which family child care services are provided or to which children have access.

(d) The licensee shall permit the Department to inspect, audit, and copy children's records or other family child care home records upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the following requirements:

(1) Licensing representatives shall not remove the following current records unless the same information is otherwise readily available in another document or format:

(A) Current emergency information cards for current children in care as specified in Section 102417(g)(7).

(B) The current roster of children in care as specified in Section 102417(g)(8).

(C) Children's immunization records as specified in Section 102418(g).

(D) Documentation of completion of health and safety training by the licensee and other personnel as specified in Sections 102368(d) and 102416(c).

(E) Any other records containing current emergency or health-related information for current children in care or staff.

(2) Prior to removing any records, a licensing representative shall prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the licensee or designated substitute.

(3) Licensing representatives shall return the records undamaged and in good order within three business days following the date the records were removed.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.852, 1597.55a and 1597.55b, Health and Safety

Code; *Rush* v. *Obledo* (9th Cir. 1985) 756 F.2d 713; and *Golden Day Schools, Inc. v. Pirillo* (C.D. Cal. 2000) 118 F. Supp. 2nd 1037.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment filed 8–17–88; operative 9–16–88 (Register 88, No. 34).
3. Change without regulatory effect amending subsections (c), (d) and (e) filed 5–7–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 20).
4. Renumbering of former article 5 to article 4, renumbering of former section 102391 to new section 102401, and renumbering and amendment of former section 102395 to new section 102391 filed 10–6–97; operative 11–5–97 (Register 97, No. 41).
5. Amendment of section heading and subsection (b), new subsections (d)–(d)(3) and amendment of NOTE filed 5–9–2005; operative 6–8–2005 (Register 2005, No. 19).

§ 102392. Site Visits.

(a) Site visits to family child care homes shall be conducted as specified in Health and Safety Code Sections 1596.8535(a) [as referenced in Section 102391(b)] and 1597.55a.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81(b), 1596.852, 1597.55a and 1597.55b, Health and Safety Code; and Section 18285.5, Welfare and Institutions Code.

HISTORY

1. Renumbering of former section 102396 to new section 102392, including amendment of section and NOTE, filed 10–6–97; operative 11–5–97 (Register 97, No. 41).
2. Repealer and new section and amendment of NOTE filed 5–9–2005; operative 6–8–2005 (Register 2005, No. 19).

§ 102393. Unlicensed Facility Penalties.

(a) A penalty of $200 per day shall be assessed for the operation of an unlicensed facility under either of the following conditions:

(1) The operator has not submitted a completed application for licensure within 15 calendar days of issuance of a Notice of Operation in Violation of Law pursuant to Section 102357, and continues to operate.

(A) For purposes of this section, an application shall be deemed completed if it includes the information required in Section 102369.

(B) The completed application shall be deemed to be submitted when received by the licensing agency.

(2) Unlicensed operation continues after denial of the initial application.

(A) Notwithstanding any appeal action, facility operation must cease within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.

(b) The $200 per day penalty shall be assessed for the continued operation of an unlicensed facility as follows:

(1) On the 16th calendar day after the operator has been issued the Notice of Operation in Violation of Law, and has not submitted a completed application as required.

(A) The $200 per day penalty shall continue until the operator ceases operation or submits a completed application pursuant to Sections 102393(a)(1)(A) and (B).

(2) Within 10 calendar days of the mailing of notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.

(A) The $200 per day penalty shall continue until the operator ceases operation.

(c) If the unlicensed operator or his/her representative reports to the Department that unlicensed operation has ceased, the penalty shall cease as of the day the Department receives the notification.

(1) A site visit shall be made immediately or within five working days to verify that the unlicensed facility operation has ceased.

(2) Notwithstanding (c) above, if the unlicensed facility operation has not ceased, penalties shall continue to accrue without interruption from the date of initial penalty assessment.

(d) All penalties shall be due and payable upon receipt of the Notice for Payment from the licensing agency, and shall be paid only by check or money order made payable to the agency indicated in the notice.

(e) The Department shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (d) above.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.80, 1596.891 and 1596.892, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending subsection (a) and adopting subsections (a)(1)–(e)(1) filed 5–7–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 20).
2. Editorial correction of HISTORY 1 (Register 95, No. 25).
3. Subsection redesignation filed 9–26–95; operative 10–26–95 (Register 95, No. 39).
4. Renumbering of former section 102393 to new section 102402, and renumbering and amendment of former section 102402 to new section 102393 filed 10–6–97; operative 11–5–97 (Register 97, No. 41).

§ 102394. Unlicensed Facility Administrative Appeal.

(a) An unlicensed facility operator or his/her representative shall have the right to appeal the penalty assessment within 10 working days after service of the penalty assessments.

(1) If the unlicensed facility operation has not ceased, the $200 per day penalty shall continue to accrue during the appeal process.

(b) The appeal review shall be conducted by a higher level staff person than the evaluator who issued the penalty.

(c) If the reviewer of the appeal determines that the penalty assessment was not issued in accordance with applicable statues and regulations of the Department, he/she shall have the authority to amend or dismiss the penalty assessment.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.80, 1596.891 and 1596.893, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Renumbering of former section 102394 to new section 102403, and renumbering of former section 102403 to new section 102394 filed 10–6–97; operative 11–5–97 (Register 97, No. 41).

§ 102395. Penalties.

(a) An immediate penalty of $100 per cited violation per day for a maximum of five (5) days shall be assessed for the following:

(1) Failure to obtain a California clearance or criminal record exemption, request a transfer of a criminal record clearance or request and be approved for a transfer of an exemption as specified in Section 102370(d) for any individual required to be fingerprinted under Health and Safety Code Section 1596.871 prior to allowing the individual to work, reside or volunteer in the facility.

(A) Subsequent violations within a twelve (12) month period will result in a civil penalty of one hundred dollars ($100) per violation per day for a maximum of thirty (30) days.

(B) The Department may assess civil penalties for continued violations as permitted by Health and Safety Code Section 1596.99.

(2) Failure to provide a copy of the "Addendum to Notification of Parent's Rights Regarding Exclusion" of an individual from the home, to one parent or authorized representative of every child in care.

(A) The requirement to provide a copy shall include the parent of each new child enrolled as long as the exclusion is in effect.

(B) The copy shall be provided on the next day that the child receives care.

(3) Failure to provide a copy of the "Addendum to Notification of Parent's Rights Regarding Reinstatement" permitting an individual to return to the home, to every parent or authorized representative who received a copy of the "Addendum to Notification of Parent's Rights Regarding Exclusion" and whose child is still in care.

(4) Failure to obtain, and keep in the home, a parent's or authorized representative's signature indicating that he/she has been provided with each Addendum.

(A) This section shall be cited only if there is evidence that the parent or authorized representative was notified, but a signature was not obtained or was not maintained.

(5) Failure to provide signed addenda to the Department, when requested.

(b) For purposes of Sections 102395(a)(2), (3) and (4) above, a violation shall be cited for each parent or authorized representative that has not been notified or has not signed the form acknowledging receipt of the notice.

(c) Progressive civil penalties specified in Health and Safety Code Section 1596.99 shall not apply to penalties assessed for violation of Sections 102395(a)(1) through (5) above.

(d) Unless otherwise provided, all penalties are due and payable upon receipt of notice for payment, and shall be paid only by check or money order made payable to the agency indicated in the notice.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.871, 1596.8712(d) and 1596.99, Health and Safety Code.

HISTORY

1. New section filed 7-27-2001; operative 8-26-2001 (Register 2001, No. 30). For prior history see Register 97, No. 41.
2. Amendment of subsection (a)(1) and new subsections (a)(1)(A)-(a)(1)(A)(i) filed 7-14-2003 as an emergency; operative 7-16-2003 (Register 2003, No. 29). A Certificate of Compliance must be transmitted to OAL by 11-13-2003 or emergency language will be repealed by operation of law on the following day.
3. Change without regulatory effect amending subsection (c) filed 9-8-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 37).
4. Amendment of subsection (a)(1) and new subsections (a)(1)(A)-(a)(1)(A)(i) refiled 11-12-2003 as an emergency; operative 11-12-2003 (Register 2003, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-11-2004 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsection (a)(1) and new subsections (a)(1)(A)-(a)(1)(A)(i) refiled 3-11-2004 as an emergency; operative 3-11-2004 (Register 2004, No. 11). A Certificate of Compliance must be transmitted to OAL by 7-9-2004 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 3-11-2004 order, including further amendment of subsections (a) and (a)(1)(A) and repealer of subsection (a)(1)(A)(i), transmitted to OAL 7-9-2004 and filed 8-20-2004 (Register 2004, No. 34).
7. Amendment of subsections (a)-(a)(1), new subsection (a)(1)(A), subsection relettering, amendment of newly designated subsection (a)(1)(B) and amendment of NOTE filed 7-11-2006; operative 8-10-2006 (Register 2006, No. 28).

§ 102396. Site Visits.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81(b), 1596.852, 1597.55 and 1597.62(d), Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Change without regulatory effect amending subsection (a) and adopting subsections (a)(1)-(a)(5)(B) filed 5-7-92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 20).
3. Renumbering of section 102396 to section 102392 filed 10-6-97; operative 11-5-97 (Register 97, No. 41).

Article 5. Administrative Actions

§ 102401. Denial of a License.

(a) When the requirements for licensure are not met, the Department shall deny the application within 30 days after receipt of a completed application.

(b) The Department shall have the authority to deny an application for initial license, if the applicant has failed to pay any civil penalty assessments pursuant to Section 102393, and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the Department have been made.

(c) Immediately upon the denial of any application for a license, the Department shall notify the applicant in writing. Within 15 days after the Department mails the notice, the applicant may present his or her written petition for a hearing to the Department. Upon receipt by the Department

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of the petition, the petition shall be set for hearing. The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) An application for licensure shall not be denied solely on the basis that the applicant is a parent who has administered or will continue to administer corporal punishment, not constituting child abuse, on his/her own child(ren).

(1) For the purposes of Section 102401(d), child abuse means a situation in which a child suffers from one or more of the following:

(A) Physical injury which is inflicted by other than accidental means on a child by another person.

(B) Sexual assault of a child or any act or omission described in Sections 102370(c)(4) and (5).

(C) Neglect of a child or abuse in out-of-home care.

(D) Serious physical injury inflicted upon the child by other than accidental means.

(E) Harm by reason of intentional neglect or malnutrition or sexual abuse.

(F) Going without necessary and basic physical care.

(G) Willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services.

(H) Any condition which results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development, or capacity for independence.

(e) No limitation shall be imposed on the licensee or printed on the license solely on the basis of a written or oral admission by the licensee to the use of corporal punishment, not constituting child abuse pursuant to Section 102401(d)(1), on his/her own child(ren).

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1531.5, 1596.81(b), 1596.856, 1596.891 and 1597.59, Health and Safety Code.

HISTORY

1. Renumbering of former article 5 to new article 4 and renumbering of former article 4 to new article 5, and renumbering of former section 102391 to new section 102401, including amendment of section and NOTE, filed 10-6-97; operative 11-5-97 (Register 97, No. 41).

§ 102402. Revocation or Suspension of a License or Registration.

(a) The Department shall have the authority to suspend or revoke any license for the following reasons:

(1) Violation by the licensee of any of the laws, rules and regulations governing family child care homes.

(2) Aiding, abetting, or permitting the violation of any of the laws, rules, and regulations governing family child care homes.

(3) Conduct in the operation of maintenance of a family day care home which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.

(4) The conviction of a licensee, or other person specified in Section 102369(b)(8), as any time during licensure, of a crime as defined in Sections 102370(b) and (c).

(5) Failure to comply with the requirements for training in preventive health practices, including pediatric cardiopulmonary resuscitation and pediatric first aid, as specified in Health and Safety Code Section 1596.866.

(b) The Director may temporarily suspend any license prior to any hearing when, in the opinion of the Director, the action is necessary to protect any child in a family child care home from physical or mental abuse, abandonment or any other substantial threat to health or safety.

(c) The Director shall notify the licensee of the temporary suspension and the effective date thereof and at the same time shall serve the provider with an accusation.

(1) Upon receipt of a notice of defense to the accusation by the licensee, the Director shall, within 15 days, set the matter for hearing, and the hearing shall be held as soon as possible, but not later than 30 days after receipt of the notice.

(d) The temporary suspension shall remain in effect until such time as the hearing is completed and the Director has made a final determination on the merits.

(1) The temporary suspension shall be deemed vacated if the Director fails to make a final determination of the merits within 30 days after the original hearing has been completed.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.866, 1596.885 and 1596.886, Health and Safety Code.

HISTORY

1. New section filed 8-17-88; operative 9-16-88 (Register 88, No. 34).
2. Renumbering of former section 102402 to new section 102393, and renumbering and amendment of former section 102393 to new section 102402 filed 10-6-97; operative 11-5-97 (Register 97, No. 41).

§ 102402.1. Denial or Revocation of License for Failure to Pay Civil Penalties.

(a) The licensee shall be responsible for paying civil penalties.

(1) Unless otherwise provided, the transfer, surrender, forfeiture or revocation of a license shall not affect the licensee's responsibility for paying any civil penalties accrued while the license was in effect.

(b) The Department shall have the authority to deny or revoke any license for failure to pay civil penalty assessments.

(1) The Department shall have the authority to approve payment arrangements acceptable to the Department.

(2) The Department shall have the authority to approve the form of payment.

(3) The licensee's failure to pay civil penalty assessments pursuant to a payment plan approved by the Department may result in the denial or revocation of any license, and/or any other appropriate action.

(c) Any denial or revocation of the license for failure to pay civil penalties may be appealed as provided by Health and Safety Code Section 1596.887.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.871 and 1596.99, Health and Safety Code.

HISTORY

1. New section filed 7-27-2001; operative 8-26-2001 (Register 2001, No. 30).

§ 102403. Licensee Complaints.

(a) Each licensee shall have the right, without prejudice or risk of discriminatory treatment by the Department, to bring to the attention of the Department any action or behavior by the departmental representative that he/she believes is a wrongful application of these regulations, or capricious enforcement of them.

(b) The licensee shall have the right to complain to the Department regarding a review of any disputed issues.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81(b) and 1597.56, Health and Safety Code.

HISTORY

1. New section filed 8-17-88; operative 9-16-88 (Register 88, No. 34).
2. Renumbering of former section 102403 to new section 102394, and renumbering and amendment of former section 102394 to new section 102403 filed 10-6-97; operative 11-5-97 (Register 97, No. 41).

Article 6. Continuing Requirements

§ 102416. Personnel Requirements.

(a) The licensee shall provide each employee with a copy of the Notice of Employee Rights (LIC 9052 (4/88)) form furnished by the Department.

(1) Each employee shall be requested to sign and date the notice form acknowledging receipt.

(2) A copy of the signed notice form shall be retained in the employee's personnel record.

(3) If the employee refuses to sign the notice form, a dated notation to that effect shall be retained in the employee's personnel record.

(b) A claim by the employee alleging the violation by the licensee of Section 102416(a) shall be presented to the licensee within 45 days after

the action as to which complaint is made and presented to the Division of Labor Standards Enforcement not later than 90 days after the action as to which complaint is made.

(c) The licensee and other personnel as specified shall complete training on preventive health practices, including pediatric cardiopulmonary resuscitation and pediatric first aid, pursuant to Health and Safety Code Section 1596.866.

(d) Prior to employment or initial presence in the child care home, all employees and volunteers subject to a criminal record review shall:

(1) Obtain a California clearance or a criminal record exemption as required by law or Department regulations or

(2) Request a transfer of a criminal record clearance as specified in Section 102370(j) or

(3) Request and be approved for a transfer of a criminal record exemption, as specified in Section 102370.1(p), unless, upon request for a transfer, the Department permits the individual to be employed, reside or be present at the facility.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.866, 1596.880, 1596.881 and 1596.882, Health and Safety Code.

HISTORY

1. New section filed 9-6-89; operative 10-6-89 (Register 89, No. 37).
2. Change without regulatory effect amending section filed 5-7-92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 20).
3. New subsection (c) and amendment of NOTE filed 10-6-97; operative 11-5-97 (Register 97, No. 41).
4. New subsections (d)-(d)(3) filed 7-14-2003 as an emergency; operative 7-16-2003 (Register 2003, No. 29). A Certificate of Compliance must be transmitted to OAL by 11-13-2003 or emergency language will be repealed by operation of law on the following day.
5. New subsections (d)-(d)(3) refiled 11-12-2003 as an emergency; operative 11-12-2003 (Register 2003, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-11-2004 or emergency language will be repealed by operation of law on the following day.
6. New subsections (d)-(d)(3) refiled 3-11-2004 as an emergency; operative 3-11-2004 (Register 2004, No. 11). A Certificate of Compliance must be transmitted to OAL by 7-9-2004 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 3-11-2004 order, including further amendment of subsection (d)(1), transmitted to OAL 7-9-2004 and filed 8-20-2004 (Register 2004, No. 34).

§ 102416.1. Personnel Records.

(a) Personnel records shall be maintained on each employee and shall contain the following information:

(1) Employee's full name.

(2) Driver's license number if the employee is to transport children.

(3) Date of employment.

(4) Date of birth.

(5) Current home address and phone number.

(6) Documentation of completion of training on preventative health practices as required by Section 102416(c).

(7) Past experience, including types of employment and former employers.

(8) Duties of the employee.

(9) Termination date if no longer employed.

(10) A signed and dated copy of the Notice of Employee Rights [LIC 9052, (Rev. 03/03)] as required by Section 102416(a) and Section 102417.

(11) A signed statement regarding their criminal record history as required by Section 102370(c).

(12) Documentation of either a criminal record clearance or a criminal record exemption as required by Section 102370(d).

(b) Personnel records shall be maintained for all volunteers and shall contain the following:

(1) For volunteers that are required to be fingerprinted pursuant to Section 102370:

(A) A signed statement regarding their criminal record history as required by Section 102370(c).

(B) Documentation of either a criminal record clearance or a criminal record exemption as required by Section 102370(d).

(c) All personnel records shall be kept for at least three years following termination of employment/volunteer work.

(d) All personnel records shall be maintained at the child care home and shall be available to the licensing agency for review.

NOTE: Authority cited: Sections 1596.81 and 1596.871, Health and Safety Code. Reference: Sections 1596.81, 1596.871, 1596.885 and 1596.8897, Health and Safety Code.

HISTORY

1. New section filed 7-14-2003 as an emergency; operative 7-16-2003 (Register 2003, No. 29). A Certificate of Compliance must be transmitted to OAL by 11-13-2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 11-12-2003 as an emergency; operative 11-12-2003 (Register 2003, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-11-2004 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-11-2004 as an emergency; operative 3-11-2004 (Register 2004, No. 11). A Certificate of Compliance must be transmitted to OAL by 7-9-2004 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-11-2004 order transmitted to OAL 7-9-2004 and filed 8-20-2004 (Register 2004, No. 34).

§ 102416.2 Reporting Requirements.

(a) The licensee shall report the following information to the Department by telephone or fax within the Department's next business day and during normal working hours (8am to 5pm).

(1) If the applicant or licensee operates a foster family home as defined in Health and Safety Code Section 1502(a)(5) or a certified family home as defined in Health and Safety Code Section 1506(d).

(2) Any change in household composition including adults moving in or out of the home and anyone living in the home who reaches his or her 18th birthday.

(b) The licensee shall report to the Department any of the events as specified in Health and Safety Code Sections 1597.467(b)(1)(A) through (b)(1)(C) that occur during the operation of the family child care home.

(1) Medical treatment means treatment by a medical professional, as defined in Section 101152(m).

(2) Any child absence means any instance where a child in care is missing. For example, any child in care who wanders away from the Family Child Care Home, is lost during an outing, or does not return from school, shall be reported even if the child is later found safe.

(c) In addition to the events specified in Health and Safety Code Sections 1597.467(b)(1)(A) through (b)(1)(C), the licensee shall report the following events to the Department:

(1) Any suspected child abuse or neglect, as defined in Penal Code Section 11165.6, of any child in care, in addition to reporting requirements pursuant to Penal Code Section 11166.

(2) Fires or explosions occurring in or on the premises of the family child care home.

(A) Within 24 hours, the licensee additionally shall report to the local fire authority, or in areas not having organized fire services, to the State Fire Marshal.

(3) A communicable disease outbreak when determined by the local health authority.

(4) Poisonings.

(d) The licensee shall report to the Department as provided by Health and Safety Code Sections 1597.467(b)(1) and (2).

(e) The written report shall be either Form LIC 624B (8/06) Unusual Incident/Injury Report—Family Child Care Home, or a letter that includes the following information, in addition to that required by Health and Safety Code Sections 1597.467(b)(2)(A) through (b)(2)(D):

(1) Child's date of birth.

(2) Child's or parent's primary language, (e.g. English, Spanish, Chinese, Russian).

(3) Time the incident or injury happened.

(4) Date that the parent or authorized representative was notified their child was injured or subjected to any act of violence.

(5) Description of how the incident or injury happened and name of the child(ren) or adult(s) that may have been involved as well as any steps taken to prevent the incident or injury from recurring.

(6) Name and telephone number of any physician or other health care provider that examined the child.

(7) Any agency notified, person contacted, date of the contact, and the telephone or fax number of that agency or person.

(f) As soon as possible but not later than the same business day, the licensee shall notify a child's parent or authorized representative of the injuries or acts that affect that child as specified in Health and Safety Code Section 1597.467(a).

(1) Any injury suffered by a child in care shall be reported to that child's parent or authorized representative regardless of treatment by a medical professional.

(2) Reportable acts of violence include, but are not limited to, those that occur whenever any child in care is a victim of, or subjected to witnessing, others' use of great physical force resulting in bodily harm, or dangerous activity, such as illegal drug use or gunfire.

(g) In addition to the requirements of Health and Safety Code Section 1597.467(a), no later than the same business day, the licensee shall notify a child's parent or authorized representative of the events to be reported to the Department pursuant to Sections 102416.2(b) and (c) that affect that child.

(h) The licensee shall keep a copy of the letter or completed LIC 624B (8/06) (Unusual Incident/Injury Report — Family Child Care Home) in the child's record for the time period specified in Section 102421(a)(1).

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1502, 1506, 1596.72, 1596.73 and 1597.467, Health and Safety Code; Sections 11165.6 and 11166, Penal Code.

HISTORY

1. New section filed 8–11–2006; operative 9–10–2006 (Register 2006, No. 32).

§ 102416.3. Alterations to Existing Building or Grounds.

(a) Prior to making alterations or additions to a family child care home or grounds, the licensee shall notify the Department of the proposed changes, including, but not limited to, the following:

(1) Conversion of a garage (either attached or detached) into a "child care" room.

(2) Room additions to the family child care home.

(3) Installation of in–ground or above–ground swimming pools, spas, fish ponds, decorative water feature, fountains or other bodies of water.

(4) Construction of exterior decks or porches.

(5) Construction of play equipment including swing sets/climbing structures.

(6) Any change from an area of the family child care home previously identified as "off limits" to an area where care and supervision will be provided to children in care.

(b) The licensee shall provide the Department with a copy of an inspection report when an inspection is requrired by the local building inspector as a result of the alteration, addition or construction.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72 and 1596.73, Health and Safety Code.

HISTORY

1. New section filed 8–11–2006; operative 9–10–2006 (Register 2006, No. 32).

§ 102416.5. Staffing Ratio and Capacity.

(a) The capacity specified on the license shall be the maximum number of children for whom care can be provided.

(b) For a small family child care home, the maximum number of children for whom care shall be provided, including children under age 10 who live in the licensee's home, shall be one of the following:

(1) Four infants; or

(2) Six children, no more than three of whom may be infants; or

(c) For a large family child care home, the maximum number of children for whom care shall be provided when there is an assistant provider in the home, including children under age 10 who live in the licensee's home and the assistant provider's children under age 10, shall be either:

(1) Twelve children, no more than four of whom may be infants; or

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.78, 1597.44, 1597.465 and 1597.57, Health and Safety Code.

HISTORY

1. Change without regulatory effect amending subsection (c) filed 5–7–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 20).
2. Amendment of subsections (a), (b) and NOTE filed 9–26–95; operative 10–26–95 (Register 95, No. 39).
3. Amendment of section and NOTE filed 10–6–97; operative 11–5–97 (Register 97, No. 41).

§ 102417. Operation of a Family Child Care Home.

(a) The licensee shall be present in the home and shall ensure that children in care are supervised at all times. When circumstances require the licensee to be temporarily absent from the home, the licensee shall arrange for a substitute adult to care for and supervise the children during his/her absence. Temporary absences shall not exceed 20 percent of the hours that the facility is providing care per day.

(b) The home shall be kept clean and orderly, with heating and ventilation for safety and comfort.

(c) The home shall maintain telephone service.

(d) The home shall provide safe toys, play equipment and materials.

(e) When a child shows signs of illness he/she shall be separated from other children and the nature of the illness determined. If it is a communicable disease he/she shall be separated from other children until the infectious stage is over.

(f) If food is brought from the children's homes, the container shall be labeled with the child's name and properly stored or refrigerated.

(g) The home shall be free from defects or conditions which might endanger a child. Safety precautions shall include but not be limited to:

(1) Fireplaces and open–face heaters shall be screened to prevent access by children. The home shall contain a fire extinguisher and smoke detector device which meet standards established by the State Fire Marshal.

(2) Gas heaters shall be properly vented and permanently installed.

(3) Where children less than five years old are in care, stairs shall be fenced or barricaded.

(4) Poisons, detergents, cleaning compounds, medicines , firearms and other items which could pose a danger if readily available to children shall be stored where they are inaccessible to children.

(A) Storage areas for poisons, firearms and other dangerous weapons shall be locked.

(B) In lieu of locked storage of firearms, the licensee may use trigger locks or remove the firing pin.

1. Firing pins shall be stored and locked separately from firearms.

(C) Ammunition shall be stored and locked separately from firearms.

(5) All licensees shall ensure the inaccessibility of pools (in–ground and above–ground), fixed–in–place wading pools, hot tubs, spas, fish ponds and similar bodies of water through a pool cover or by surrounding the pool with a fence.

(A) Fences shall be at least five feet high and shall be constructed so that the fence does not obscure the pool from view. The bottom and sides of the fence shall comply with Division 1, Appendix Chapter 4 of the 1994 Uniform Building Code. In addition to meeting all of the aforementioned requirements for fences, gates shall swing away from the pool, self–close and have a self–latching device located no more than six inches from the top of the gate. Pool covers shall be strong enough to completely support the weight of an adult and shall be placed on the pool and locked while the pool is not in use.

1. If licensed prior to June 1, 1995, facilities with existing pool fencing shall be exempt from the fencing requirements specified in Section 102417(g)(5)(A) until such fence is replaced or structurally altered. If the licensee replaces or alters the fence, it shall be required to meet these requirements.

(B) Where an above–ground pool structure is used as the fence or where the fence is mounted on top of the pool structure, the pool shall be made inaccessible when not in use by removing or making the ladder inaccessible or erecting a barricade to prevent access to decking. If a barri-

cade is used, the barricade shall meet the requirements of Section 102417(g)(5)(A).

(6) Outdoor play areas shall either be fenced, or outdoor play areas shall be supervised by the licensee or caregiver.

(A) Outdoor play areas shall not include any area made inaccessible by fencing pursuant to Section 102417(g)(5).

(B) Where natural or man–made hazards such as canals, cliffs, condemned buildings, creeks, ditches, lakes, ocean fronts, mines, power lines, quarries, rivers, ravines, swamps, watercourses, and areas subject to flooding lie on or adjacent to the facility premises, the outdoor play area shall be inaccessible to such hazards.

1. Where a fence or wall is used to make the outdoor play area inaccessible, the requirements of Section 102417(5)(A) shall be met.

(7) An emergency information card shall be maintained for each child and shall include the child's full name, telephone number and location of a parent or other responsible adult to be contacted in an emergency, the name and telephone number of the child's physician and the parent's authorization for the licensee or registrant to consent to emergency medical care.

(8) Each family child care home shall have a current roster of children as specified in Health and Safety Code Section 1596.841.

(9) Each family child care home shall have a written disaster plan of action prepared on a form approved by the Department. All children, age and ability permitting, and the provider, the assistant provider, and other members of the household, shall be instructed in their duties under the disaster plan. As their age and ability permit, newly enrolled children shall be informed promptly of their duties as required in the plan.

(A) Each family child care home shall conduct fire drills and disaster drills at least once every six months.

1. The licensee shall document the drills, including the date and time of each drill. This documentation shall kept at the family child care home.

(10) A baby walker shall not be allowed on the premises of a family child care home in accordance with Health and Safety Code Sections 1596.846(b) and (c).

(h) Only drivers licensed for the type of vehicle to be operated shall be permitted to transport children in care.

(i) The manufacturer's rated seating capacity of the vehicle shall not be exceeded.

(j) Motor vehicles used to transport children in care shall be maintained in safe operating condition.

(k) All vehicle occupants must be secured in an appropriate restraint system.

(2) Children shall not be left in parked vehicles.

(*l*) When transporting infants in any motor vehicle, the licensee shall secure the infants in a car seat, designed for infants, which is secured in the vehicle in accordance with manufacturer's instructions.

(m) The licensee or registrant shall maintain one of the following:

(1) Liability insurance kept in force covering injury to clients and guests in the amount of at least one hundred thousand dollars ($100,000) per occurrence and three hundred thousand dollars ($300,000) in the total annual aggregate, sustained on account of the negligence of the licensee or its employees.

(2) A bond in the aggregate amount of three hundred thousand dollars ($300,000).

(3) A file of affidavits signed by each parent with a child enrolled in the home. The affidavit shall state that the parent has been informed that the family child care home does not carry liability insurance or a bond according to standards established by the state.

(A) If the provider does not own the premises used as the family child care home, the affidavit shall also state that the parent has been informed that the liability insurance, if any, of the owner of the property or the homeowners' association, as appropriate, may not provide coverage for losses arising out of, or in connection with, the operation of the family child care home, except to the extent that the losses are caused by , or result from, an act or omission by the owner of the property of the homeowners' association, for which the owner of the property or the homeowners' association would otherwise be liable under the law.

(B) These affidavits shall be on a form provided by the Department and shall be reviewed at each licensing inspection.

(C) For purposes of Sections 102417(m) and (n), "homeowners' association" is an association of a common interest development, as defined in Section 1351 of the Civil Code.

(n) A family child care home that maintains liability insurance or a bond pursuant to Section 102417(b)(1) or (2), and that provides care in premises that are renewed or leased or uses premises which share common space governed by a homeowners' association, shall name the owner of the property or the homeowners' association, as appropriate, as an additional insured party on the liability insurance policy or bond if all of the following conditions are met:

(1) The owner of the property or governing body of the homeowners' association makes a written request to be added as an additional insured party.

(2) The addition of the owner of the property or the homeowners' association does not result in cancellation or nonrenewal of the insurance policy or bond carried by the family day care home.

(3) Any additional premium assessed for this coverage is paid by the owner of the property or the homeowners' association.

(o) The licensee shall maintain proof of control of property at the family child care home for review by the Department.

(1) If the licensee owns or is buying the home, this is a copy of the property deed, the property tax statement, or a payment coupon from the mortgage company or bank.

(2) If the licensee is operating on rented or leased property, this is a copy of the rental agreement or lease.

(p) A licensee who operates on rented or leased property, and who wishes to increase the capacity of the family child care home as specified in Section 102416.5(b)(3) or Section 102416.5(c)(1), shall obtain the written consent of the property owner/landlord to increase the home's capacity to eight or 14 children.

(1) The original of the completed and signed consent form shall be attached to the family child care home's license and kept on file in the home.

(q) A signed and dated copy of LIC 9052 (4/88), Notice of Employee Rights, shall be maintained in the employee's personnel record.

(r) Upon notice from the Department to remove an individual from the home, pursuant to Health and Safety Code Section 1596.871(c)(2), or to exclude an individual from the home, pursuant to Health and Safety Code Section 1596.8897, the licensee shall;

(1) Immediately remove the individual and prevent the individual from returning to the home or having contact with children in care.

(2) Provide a copy of the Addendum to Notification of Parent's Rights (Regarding Removal/Exclusion) (LIC 995B, Rev. 05/03) to one parent or authorized representative of every child currently in care within one day of receipt of the notice and addendum from the Department.

(A) Upon notice from the Department that the individual may return to the home, provide a copy of the Addendum to Notification of Parent's Rights (Regarding Reinstatement) (LIC 995C, Rev. 03/01) to one parent or authorized representative of every child currently in care within one day of receipt of the notice and addendum from the Department.

(3) Obtain a signed and dated receipt from one parent or authorized representative that acknowledges that he/she was given a copy of the addendum specified in Section 102417(r)(2).

(4) Maintain copies of the signed and dated receipt required in Section 102417(r)(3) in each child's file. Copies shall be made available to the Department upon request.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.78, 1596.81(b), 1596.841, 1596.846(b) and (c), 1596.880, 1596.881, 1596.882, 1597.30, 1597.44, 1597.45, 1597.46, 1597.465, 1597.531 and 1597.54(b)(2), Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. New subsections (h)–(k) filed 3–31–87; effective thirtieth day thereafter (Register 87, No. 14).
3. Change without regulatory effect of subsection (g) (Register 87, No. 43).
4. New subsection (m) filed 7–6–88; operative 8–5–88 (Register 88, No. 28).
5. New subsection (o) filed 9–6–89; operative 10–6–89 (Register 89, No. 37).
6. Editorial correction of NOTE (Register 89, No. 44).
7. Change without regulatory effect amending lettering and correcting cross–references filed 5–28–91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 28).
8. Change without regulatory effect amending subsections (g) and (m) and adopting subsections (m)(1)–(n)(3) and relettering of subsection (n) to (o) filed 5–7–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 20).
9. Amendment of subsection (g)(1) and NOTE filed 9–26–95; operative 10–26–95 (Register 95, No. 39).
10. Amendment of subsections (g)(5)–(g)(5)(A), new subsections (g)(5)(A)1.–(g)(5)(B), amendment of subsection (g)(6) and new subsections (g)(6)(A)–(g)(6)(B)1. filed 8–14–96; operative 9–13–96 (Register 96, No. 33).
11. Editorial correction of subsection (g)(5)(A)1. (Register 97, No. 41).
12. Amendment of section heading, section and NOTE filed 10–6–97; operative 11–5–97 (Register 97, No. 41).
13. New subsections (r)–(r)(4) and amendment of NOTE filed 7–14–2003 as an emergency; operative 7–16–2003 (Register 2003, No. 29). A Certificate of Compliance must be transmitted to OAL by 11–13–2003 or emergency language will be repealed by operation of law on the following day.
14. New subsections (r)–(r)(4) and amendment of NOTE refiled 11–12–2003 as an emergency; operative 11–12–2003 (Register 2003, No. 46). A Certificate of Compliance must be transmitted to OAL by 3–11–2004 or emergency language will be repealed by operation of law on the following day.
15. New subsections (r)–(r)(4) and amendment of NOTE refiled 3–11–2004 as an emergency; operative 3–11–2004 (Register 2004, No. 11). A Certificate of Compliance must be transmitted to OAL by 7–9–2004 or emergency language will be repealed by operation of law on the following day.
16. Certificate of Compliance as to 3–11–2004 order, including further amendment of subsection (r)(2), transmitted to OAL 7–9–2004 and filed 8–20–2004 (Register 2004, No. 34).

§ 102418. Immunizations.

(a) Prior to admission to a family day care home, children shall be immunized against diseases as required by the California Code of Regulations, Title 17, beginning with Section 6000.

(e) The licensee shall be permitted to exempt a child from this requirement provided that one of the following requirements is met and the documentation is kept in the child's file:

(1) A physician provides a written statement that an immunization(s) should not be given to the child and specified how long this exemption is expected to be needed.

(2) The parents or guardians sign and date the back of the California School Immunization Record, PM 286 (6/95), which is also used for family day care homes, under the "Personal Beliefs Affidavit."

(f) As required by the California Code of Regulations, Title 17, Section 6035(b), a child who does not meet any of the requirements in Sections 102418(c), (d), or (e), shall not be admitted to a family day care home.

(g) The licensee shall document each child's immunizations as required by the California Code of Regulations, Title 17, Section 6070, and shall maintain such documentation for as long as the child is enrolled.

(1) This requirement includes updating each child's PM 286 (6/95) when the child is due to receive required immunizations after enrollment in the family day care home.

(j) The licensee shall not be required to document immunizations of children also enrolled in a public or private elementary school.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.813, 1597.05, 1597.541 and 120325–120380, Health and Safety Code; and Sections 6000–6075, California Code of Regulations, Title 17.

HISTORY

1. New section filed 10–23–97; operative 11–22–97 (Register 97, No. 43).

§ 102419. Admission Procedures and Parental and Authorized Representative's Rights.

(a) The licensee shall inform parents or authorized representatives of children in care of their rights, which include, but are not limited to, the following:

(1) To enter and inspect the family child care home in accordance with Health and Safety Code Section 1596.857.

(2) To file a complaint against the licensee with the local licensing office in accordance with Health and Safety Code Section 1596.853.

(3) To review the family child care home's public file kept by the local licensing office in accordance with Health and Safety Code Section 1596.859.

(4) To review at the family child care home, reports of licensing visits and substantiated complaints against the licensee made during the last three years in accordance with Health and Safety Code Section 1596.859.

(5) To complain to the local licensing office and inspect the family child care home without discrimination or retaliation in accordance with Health and Safety Code Section 1596.857.

(6) To request in writing that a parent not be allowed to visit a child or take a child from the family child care home, provided the custodial parent has shown a certified copy of a court order pursuant to Health and Safety Code Section 1596.857.

(7) To receive from the licensee the name, address and telephone number of the local licensing office in accordance with Section 1596.874.

(8) To be informed by the licensee, upon request, of the name and type of association to the family child care home for any adult who has been granted a criminal record exemption, and that the name of the person may also be obtained by contacting the local licensing office.

(b) The licensee shall post the PUB 394 (8/02), Family Child Care Home Notification of Parents' Rights Poster in a prominent, publicly accessible area in the family child care home at all times children are in care.

(c) The licensee shall provide to the parent or authorized representative the LIC 995E (6/05), Caregiver Background Check Process form.

(d) At the time of acceptance of each child into care, the licensee shall provide the child's parent or authorized representative with a copy of the notice Family Child Care Home Notification of Parents' Rights, LIC 995A (8/06), the Caregiver Background Check Process, LIC 995E (6/05), and the Family Child Care Consumer Awareness Information, LIC 9212 (10/05).

(1) The licensee shall request the child's parent or authorized representative to sign and date the bottom portion of the notice form LIC 995A (8/06), which acknowledges that the parent or authorized representative has received and read the LIC 995A. The bottom portion of this form must be kept in the child's file as proof that the parent or authorized representative has been notified of his or her rights and received a copy of the Caregiver Background Check Process, LIC 995E (6/05), and the Family Child Care Consumer Awareness Information, LIC 9212 (10/05).

(2) Whenever a parent or authorized representative makes a request pursuant to Section 102419(a)(8), the licensee shall note, date, and initial the request in the child's file. The licensee shall request that the parent or authorized representative also initial the notation documenting the request.

(3) Reserved

(A) Upon a finding of noncompliance with a plan of correction for violation of Sections 102419(a)(8), (b), (c), (d), (d)(1), or (d)(2), the Department shall impose a civil penalty of fifty dollars ($50) per day until the deficiency is corrected.

(B) Regardless of whether the licensee complies with an initial plan of correction in the time allotted, if the licensee subsequently violates any provision of Sections 102419(a)(8), (b), (c), (d), (d)(1), or (d)(2) within 12 months of the initial citation, the Department shall assess a civil penalty of $150 plus an assessment of $50 per day until the deficiency is corrected.

(C) Regardless of whether the licensee complies with the deficiency in Section 102419(b)(3)(B), if the licensee subsequently violates any provision of Sections 102419(a)(8), (b), (c), (d), (d)(1), or (d)(2) within

12 months of the citations and assessment in Section 102419(b)(3)(B), the Department shall assess a civil penalty of $150 plus an assessment of $150 per day until the deficienacy is corrected.

(e) Upon presenting identification, the parent or authorized representative of a child in care has the right to enter and inspect the family child care home without advance notice during the family child care home's normal operating hours.

(1) When inspecting the family child care home, the parent or authorized representatives shall be respectful of the children's routines and programmed activities.

(f) No family child care home shall discriminate or retaliate against any child or any child's parent or authorized representative because the parent or authorized representative has exercised his or her right to inspect the family child care home or has lodged a complaint with the Department against the family child care home.

(1) If the licensee denies a parent or authorized representative the right to enter and inspect the family child care home or retaliates against any child or any child's parent or authorized representative, the Department shall issue the licensee a warning citation.

(2) For any subsequent violation of this right, the Department shall take appropriate action including, but not limited to, license revocation and imposition of a civil penalty upon the home of fifty dollars ($50) per violation.

(3) The person present who is in charge of the family child care home shall determine whether to deny access to the following:

(A) An adult whose behavior presents a risk to children present in the home; and

(B) A parent who is subject to a court order denying him/her contact with the child if so requested by the child's parent or authorized representative.

(g) If a child's parent or authorized representative refuses to sign the LIC 995A (8/06), a dated notation to that effect, containing the parent or authorized representative's name and telephone number, shall be kept in the child's record.

(h) The licensee shall provide a copy of the Department issued Addendum to Notification of Parent's Rights (Regarding Removal/Exclusion) (LIC 995B Rev. 05/03) sent by the Department, that is still in effect, to one parent or authorized representative of every child when the parent or authorized representative arranges for child care services or on the first day the child receives care, whichever is first.

(1) Upon notice from the Department that the excluded/removed individual may return to the facility, the licensee shall provide a copy of the Addendum to Notification of Parent's Rights (Regarding Reinstatement) (LIC 995C Rev. 03/01) to one parent or authorized representative of every child in care within one day of receipt of the notice and addendum from the Department.

(2) The licensee may provide the parent or authorized representative with the Family Child Care Home Explanation of Removals/Exclusions and Reinstatement, LIC 995D (5/03).

(i) The licensee shall obtain a signed and dated receipt from one parent or authorized representative that acknowledges that he/she was given a copy of the addendum specified in Sections 102419(h) and (h)(1) and maintain copies of the receipt in each child's record for the time period specified in Section 102421(a)(1).

(j) Copies of the signed receipt shall be available to the Department as provided in Section 102391(d).

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.853, 1596.857, 1596.859, 1596.874, 1597.07, 1597.30 and 1597.56, Health and Safety Code.

HISTORY

1. Amendment filed 1–12–88; operative 2–11–88 (Register 88, No. 4).
2. Change without regulatory effect amending subsections (b)–(b)(2) and adopting subsections (c)–(d)(3)(B) and relettering of subsection (c) to (e) filed 5–7–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 20).
3. Amendment filed 10–6–97; operative 11–5–97 (Register 97, No. 41).
4. Amendment of section heading, section and NOTE filed 8–7–2002 as an emergency; operative 8–7–2002 (Register 2002, No. 32). A Certificate of Compliance must be transmitted to OAL by 12–5–2002 or emergency language will be repealed by operation of law on the following day.
5. Amendment of section heading, section and NOTE refiled 12–3–2002 as an emergency; operative 12–5–2002 (Register 2002, No. 49). A Certificate of Compliance must be transmitted to OAL by 4–4–2003 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 12–3–2002 order transmitted to OAL 4–1–2003 and filed 5–12–2003 (Register 2003, No. 20).
7. New subsections (h)–(j) filed 7–14–2003 as an emergency; operative 7–16–2003 (Register 2003, No. 29). A Certificate of Compliance must be transmitted to OAL by 11–13–2003 or emergency language will be repealed by operation of law on the following day.
8. New subsections (h)–(j) and amendment of NOTE refiled 11–12–2003 as an emergency; operative 11–12–2003 (Register 2003, No. 46). A Certificate of Compliance must be transmitted to OAL by 3–11–2004 or emergency language will be repealed by operation of law on the following day.
9. New subsections (h)–(j) and amendment of NOTE refiled 3–11–2004 as an emergency; operative 3–11–2004 (Register 2004, No. 11). A Certificate of Compliance must be transmitted to OAL by 7–9–2004 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 3–11–2004 order, including further amendment of subsection (h), transmitted to OAL 7–9–2004 and filed 8–20–2004 (Register 2004, No. 34).
11. Amendment of section and NOTE filed 8–11–2006; operative 9–10–2006 (Register 2006, No. 32).

§ 102421. Child's Records.

(a) The licensee shall maintain, in each child's record, the signed and dated notice form required in Section 102419(d).

(1) The licensee shall kept the signed and dated notice form for at least three years following termination of service to the child.

(b) The licensee shall maintain, in each child's record, a copy of the emergency information card required in Section 102417(g)(7).

(c) In any case in which a licensee releases a minor to a peace officer pursuant to Section 305 of the Welfare and Institutions Code, the licensee shall provide the peace officer with the address and telephone number of the minor's parent or authorized representative in order to enable the peace officer to make the notification required by Section 308 of the Welfare and Institutions Code.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.857, 1596.872, 1596.876 and 1597.30, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Amendment filed 1–12–88; operative 2–11–88 (Register 88, No. 4).
3. Change without regulatory effect amending subsection (c) filed 5–7–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 20).
4. Amendment filed 10–6–97; operative 11–5–97 (Register 97, No. 41).
5. Amendment of subsections (a) and (c) filed 8–7–2002 as an emergency; operative 8–7–2002 (Register 2002, No. 32). A Certificate of Compliance must be transmitted to OAL by 12–5–2002 or emergency language will be repealed by operation of law on the following day.
6. Amendment of subsections (a) and (c) refiled 12–3–2002 as an emergency; operative 12–5–2002 (Register 2002, No. 49). A Certificate of Compliance must be transmitted to OAL by 4–4–2003 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12–3–2002 order transmitted to OAL 4–1–2003 and filed 5–12–2003 (Register 2003, No. 20).

§ 102423. Personal Rights.

(a) Each child receiving services from a family child care home shall have certain rights that shall not be waived or abridged by the licensee regardless of consent or authorization from the child's authorized representative. These rights include, but are not limited to, the following:

(1) To be treated with dignity in his/her personal relationship with staff and other persons.

(2) To receive safe, healthful, and comfortable accommodations, furnishings, and equipment.

(3) To have parents or guardians informed by the licensee of the provisions of the law regarding complaints and the procedures for registering complaints confidentially, including, but not limited to the address and telephone number of the licensing agency's complaint unit.

(4) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature, including but not limited to: interference with eating, sleeping or toileting; or withholding shelter, clothing, medication or aids to physical functioning.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Section 1597.30, Health and Safety Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 29).
2. Change without regulatory effect amending subsection (a) filed 5–7–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 20).
3. Amendment filed 10–6–97; operative 11–5–97 (Register 97, No. 41).
4. Repealer of subsection (b) and amendment of NOTE filed 8–11–2006; operative 9–10–2006 (Register 2006, No. 32).

§ 102424. Smoking Prohibition.

(a) Smoking is prohibited on the premises of a family child care home as specified in Health and Safety Code Section 1596.795(a).

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Section 1596.795(a), Health and Safety Code.

HISTORY

1. New section filed 10–6–97; operative 11–5–97 (Register 97, No. 41).

Article 7. Physical Environment (Reserved)

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Division 13. Department of Child Support Services

Chapter 1. Program Administration

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Article 1. Definitions

§ 110000. Meaning of Words.

Words shall have their usual meaning unless the context or a definition clearly indicates a different meaning. Shall means mandatory. May means permissive.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New division 13 (chapters 1–12, sections 110000–120222), chapter 1, subchapter 1 (articles 1–6, sections 110000–111543), article 1 (sections 110000–110661) and section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New division 13 (chapters 1–12, sections 110000–120222), chapter 1, subchapter 1 (articles 1–6, sections 110000–111543), article 1 (sections 110000–110661) and section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 110004. Abuse.

"Abuse" means any of the following:

(a) Intentionally or recklessly to cause or attempt to cause bodily injury.

(b) Sexual assault.

(c) To place a person in reasonable apprehension of imminent serious bodily injury to that person or to another.

(d) To engage in any behavior that has been or could be enjoined pursuant to Section 6320, Family Code.

(e) Battering or subjecting a victim to extreme cruelty, as specified in Section 11495.12, Welfare and Institution Code, by:

(1) Physical acts that resulted in, or threatened to result in, physical injury.

(2) Sexual abuse.

(3) Sexual activity involving a child in the home.

(4) Being forced to participate in nonconsensual sexual acts or activities.

(5) Threats of, or attempts at, physical or sexual abuse.

(6) Mental abuse.

(7) Neglect or deprivation of medical care.

(8) Stalking.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 112002 to new section 110004 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110028. Administrative Law Judge.

"Administrative Law Judge" means a person designated by the Director to conduct child support state hearings, and who shall have been admitted to practice law in California, and shall possess such other qualifications as prescribed by the California State Personnel Board.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 120001 to new section 110028 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110041. Applicant.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2–14–2002 order transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).
5. Change without regulatory effect renumbering former section 110041 to new section 110056 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110042. Application.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17212, 17406 and 17801, Family Code; Section 11478.1, Welfare and Institutions Code; and 45 Code of Federal Regulations, Sections 302.15, 302.33 and 303.2.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. Amendment filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
4. Amendment refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
5. Editorial correction of HISTORY 4 (Register 2002, No. 33).
6. Certificate of Compliance as to 2–14–2002 order transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).
7. Change without regulatory effect renumbering former section 110042 to new section 110060 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110046. Arrears or Arrearage or Arrearages.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code; and Section 695.210, Code of Civil Procedure.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110046 to new section 110064 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110048. Alternate Arrangement.

"Alternate arrangement" means a written agreement approved by a court or tribunal between an obligee and obligor that provides for payment of a support obligation as ordered other than through the immediate service of an income withholding order, and that is signed by the local child support agency with jurisdiction over the case when:

(a) Public assistance is being provided and there has been an assignment of support rights to the State.

(b) No public assistance is being provided, but the local child support agency is providing Title IV-D services at the time the alternate arrangement is entered into.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 5260, Family Code; and 45 Code of Federal Regulations, Section 303.100(b)(3).

HISTORY

1. Change without regulatory effect renumbering former section 116004 to new section 110048 filed 3-24-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110056. Applicant.

"Applicant" means an individual who submits an application for Title IV-D services.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110041 to new section 110056 filed 3-24-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110060. Application.

"Application" means a written or electronic document provided by a local child support agency in which an individual requests support services and which is signed by the individual.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17212, 17406 and 17801, Family Code; Section 11478.1, Welfare and Institutions Code; and 45 Code of Federal Regulations, Sections 302.15, 302.33 and 303.2.

HISTORY

1. Change without regulatory effect renumbering former section 110042 to new section 110060 filed 3-24-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110064. Arrears or Arrearage or Arrearages.

"Arrears" or "arrearage" or "arrearages" means the unpaid child support payments for past periods owed by a parent who is obligated to pay by court order. The arrears or arrearage or arrearages include interest and are adjusted for the amount of any partial satisfactions of the judgment.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code; and Section 695.210, Code of Civil Procedure.

HISTORY

1. Change without regulatory effect renumbering former section 110046 to new section 110064 filed 3-24-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110068. Assets.

"Assets" include, but are not limited to, the following:

(a) Cash on hand, money in checking or savings account, savings certificates, stocks or bonds.

(b) All other property, real or personal, excluding the applicant's primary residence and one vehicle used for transportation.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4053, 4058, 4059 and 17550, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 119003 to new section 110068 filed 3-24-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110088. Business Day.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 6-26-2001 as an emergency; operative 7-1-2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12-28-2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12-18-2001 as an emergency; operative 12-30-2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6-28-2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-18-2001 order transmitted to OAL 6-11-2002 and filed 7-24-2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110088 to new section 110100 filed 3-24-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110092. Authorized Representative.

"Authorized representative" means an individual or a representative from an organization that has been authorized by a complainant to act on behalf of the complainant in any and all aspects of a state hearing.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 120002 to new section 110092 filed 3-24-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110098. CalWORKs Recipient.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17402, Family Code; and 45 Code of Federal Regulations, Sections 302.33 and 303.2.

HISTORY

1. New section filed 9-10-2001 as an emergency pursuant to Family Code section 17306; operative 9-10-2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3-11-2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2-14-2002 as an emergency pursuant to Family Code section 17306(e); operative 2-14-2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8-20-2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2-14-2002 order transmitted to OAL 7-3-2002 and filed 8-15-2002 (Register 2002, No. 33).
5. Change without regulatory effect renumbering former section 110098 to new section 110112 filed 3-24-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110099. Case.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17801 and 17802, Family Code.

HISTORY

1. New section filed 6-26-2001 as an emergency; operative 7-1-2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12-28-2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12-18-2001 as an emergency; operative 12-30-2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6-28-2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-18-2001 order transmitted to OAL 6-11-2002 and filed 7-24-2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110099 to new section 110116 filed 3-24-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110100. Business Day.

"Business day" means any day that is not a Saturday, Sunday, or holiday as specified in Sections 6700 and 6701 of the Government Code.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110088 to new section 110100 filed 3-24-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110109. Case Record.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: 45 Code of Federal Regulations, Section 303.2.

HISTORY

1. New section filed 6-26-2001 as an emergency; operative 7-1-2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12-28-2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12-18-2001 as an emergency; operative 12-30-2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6-28-2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-18-2001 order transmitted to OAL 6-11-2002 and filed 7-24-2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110109 to new section 110124 filed 3-24-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110112. CalWORKs Recipient.

"CalWORKs recipient" means an individual who is receiving public assistance benefits under the California Work Opportunity and Responsibility to Kids (CalWORKs) program, including KinGap, established pursuant to Welfare and Institutions Code, commencing with Section 11200.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17402, Family Code; and 45 Code of Federal Regulations, Sections 302.33 and 303.2.

HISTORY

1. Change without regulatory effect renumbering former section 110098 to new section 110112, including amendments, filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110116. Case.

"Case" means a noncustodial parent, whether mother, father, or alleged father, a custodial party, and a dependent child or children. The custodial party may be one of the child's parents, or other relative or caretaker including a foster parent. If both parents are absent and liable or potentially liable for the support of the child(ren), each parent is considered a separate case.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17801 and 17802, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110099 to new section 110116 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110120. Case Closure.

"Case closure" means that Title IV–D services will no longer be provided. Case closure shall not affect a child support order or arrears that have accrued under the order.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17531, Family Code; and 45 Code of Federal Regulations, Section 303.11.

HISTORY

1. Change without regulatory effect renumbering former section 118020 to new section 110120 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110124. Case Record.

"Case record" means a file containing all information and documents pertaining to the case, including all relevant facts, dates, and actions taken related to the case, and all contacts made and the results of those contacts. The case record is the property of the local child support agency.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: 45 Code of Federal Regulations, Section 303.2.

HISTORY

1. Change without regulatory effect renumbering former section 110109 to new section 110124 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110129. Child Support.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 3600, 4054 et seq., 17212 and 17801, Family Code; and 42 U.S.C., Section 659.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110129 to new section 110144 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110132. Central Registry.

"Central Registry" means a unit within each state responsible for receiving, screening, and distributing incoming interstate cases, and for responding to inquiries on incoming interstate cases.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4924, Family Code; and 45 Code of Federal Regulations, Section 303.7.

HISTORY

1. Change without regulatory effect renumbering former section 117016 to new section 110132 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110135. Child Support Order.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17000, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110135 to new section 110148 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110140. Child Abuse.

"Child abuse" means any of the following:

(a) A physical injury which is inflicted by other than accidental means on a child by another person.

(b) The sexual abuse of a child or any act or omission proscribed by Penal Code, Sections 273a(a) or 273d(a).

(c) The neglect of a child or abuse in out–of–home care, as defined in Section 11165.5, Penal Code.

(d) The willful cruelty or unjustifiable punishment of a child, as defined in Section 11165.3, Penal Code.

(e) The unlawful corporal punishment or injury of a child, as defined in Section 11165.4, Penal Code.

(f) The emotional or mental abuse of a child.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 112015 to new section 110140 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110144. Child Support.

"Child support" means amounts required to be paid under a judgment, decree, or order, whether temporary, final, or subject to modification, for the support and maintenance of a child or children, which provides for any or all of the following: monetary support, health insurance coverage, arrears, and may include interest on delinquent child support obligations.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 3600, 4054 et seq., 17212 and 17801, Family Code; and 42 U.S.C., Section 659.

HISTORY

1. Change without regulatory effect renumbering former section 110129 to new section 110144 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110147. Complainant.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17800 and 17801, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110147 to new section 110156 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110148. Child Support Order.

"Child support order" means any court or administrative order for the payment of a set or determinable amount of support of a child by a parent, or a court order requiring a parent to provide for health insurance coverage for a child, or a court order requiring a parent to make payment of arrears. "Child support order" includes any court order for spousal support or for medical support to the extent these obligations are to be enforced by a single state agency for child support under Title IV–D of the federal Social Security Act (commencing with section 651 of Title 42 of the United States Code).

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17000, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110148 to new section 110160 and renumbering former section 110135 to section 110148 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110150. Complaint Resolution Process.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17800, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110150 to new section 110168 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110156. Complainant.

"Complainant" means a custodial party or noncustodial parent who has made a complaint to a local child support agency or requested a state hearing.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17800 and 17801, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110147 to new section 110156 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110160. Complaint.

"Complaint" means the complainant's oral or written statement of an unresolved dispute and a request for resolution regarding any action or inaction of a local child support agency, or the Franchise Tax Board, concerning his/her child support case.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17800, 17801 and 17802, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110148 to new section 110160 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110164. Complaint Receipt Date.

"Complaint receipt date" means the date when a local child support agency initially receives a complaint from a complainant, or receives a transferred complaint from another county.

(a) A written complaint shall be deemed to be received in one of the following ways:

(1) If mailed, five (5) business days from the date the request is postmarked. If the postmark is illegible, the date the request is received and date stamped by a local child support agency.

(2) If hand delivered, the date the request is received and date stamped by a local child support agency.

(b) An oral complaint shall be deemed to be received as of the date a complainant speaks to a local child support agency representative, asks to file a complaint, and provides the information that is the basis of a complaint to a local child support agency.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17800 and 17802, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110164 to new section 110204 and renumbering former section 120003 to section 110164 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110168. Complaint Resolution Process.

"Complaint resolution process" means the actions required by the local child support agency to resolve complaints as specified in Chapter 10, Article 2.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17800, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110150 to new section 110168 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110182. Custodial Party.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110182 to new section 110224 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110184. Compromise of Assigned Arrearages — Family Reunification.

"Compromise of Assigned Arrearages — Family Reunification" means an agreement to reduce arrearages, including interest, owed to the state in cases where separation or desertion of both parents from a child resulted in aid being granted for the child in the form of Aid to Families with Dependent Children–Foster Care (AFDC–FC) payments or California Work Opportunity and Responsibility to Kids Act (CalWORKs) payments inclusive of payments for Kinship Guardianship Assistance Payment Program (KinGAP).

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17550, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110184 to section 110228 and renumbering former section 119015 to section 110184 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110186. Customer.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of section, transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110186 to new section 110232 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110192. Continuing, Exclusive Jurisdiction.

"Continuing, exclusive jurisdiction" means the authority of a tribunal to modify a support order because at least one of the parties or the child who is the subject of the order remains a resident of the state issuing the order and written consent of the parties to confer continuing jurisdiction on another state has not been filed.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4909, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 117019 to new section 110192 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110194. Day.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110194 to new section 110244 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110196. Controlling Order.

"Controlling order" means the one support order issued in a judicial or administrative proceeding that governs the amount, duration, and other terms of a child support obligation prospectively. If multiple orders have been issued, only a tribunal can determine which order is the controlling order.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4911, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 117021 to new section 110196 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110200. Department.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17000, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110200 to section 110248 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110204. County.

"County" means one of the fifty–eight administrative subdivisions in the State of California.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110164 to new section 110204 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110208. County Welfare Worker.

"County welfare worker" means a county worker providing social services in child welfare programs or a county worker determining eligibility for assistance programs.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17550, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 119019 to new section 110208 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110212. Credit Reporting Agencies.

"Credit reporting agencies" means any entity which regularly engages in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4701, Family Code; 42 USC, Section 666(a)(7); and 45 Code of Federal Regulations, Section 302.70(a)(7).

HISTORY

1. Change without regulatory effect renumbering former section 116018 to new section 110212 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110220. Director.

"Director" means the Director of the California Department of Child Support Services.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17000, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 110224. Custodial Party.

"Custodial party" means the person having primary care, custody and control of the child(ren) and who is/are receiving or has applied to receive services under Title IV–D of the federal Social Security Act (commencing with Section 651 of Title 42 of the United States Code).

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of

Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110224 to new section 110276 and renumbering former section 110182 to section 110224 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110226. Disposable Earnings.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).
5. Change without regulatory effect renumbering former section 110226 to new section 110280 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110228. Custody Determination.

"Custody determination" means a judgment, decree or order of a court providing for the custody of a child.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110184 to new section 110228 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110230. Distributed or Distribution.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110230 to new section 110288 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110232. Customer.

"Customer" means custodial parties, noncustodial parents, employers, and the public who make inquiries or raise questions about child support services.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110186 to new section 110232 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110242. Earnings.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 706.011(a), Code of Civil Procedure; and Sections 4901(e) and 5206, Family Code.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).
5. Change without regulatory effect renumbering former section 110242 to new section 110296 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110244. Day.

"Day" means calendar day unless otherwise specified.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110194 to new section 110244 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110248. Department.

"Department" means the California Department of Child Support Services.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17000, Family Code.

HISTORY

2. Change without regulatory effect renumbering former section 110248 to new section 110307 and renumbering former section 110200 to section 110248 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110250. Employer.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 3760, 5206 and 5210, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order, including amendment of NOTE, transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).
4. Change without regulatory effect renumbering former section 110250 to new section 110311 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110251. Employment–Related Group Health Insurance.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).
5. Change without regulatory effect renumbering former section 110251 to new section 110315 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110252. Enforcement.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17212 and 17801, Family Code; and Section 11478.1, Welfare and Institutions Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
5. Change without regulatory effect renumbering former section 110252 to new section 110319 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110261. Establishment.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17212 and 17801, Family Code; and Section 11478.1, Welfare and Institutions Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110261 to new section 110323 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110268. Direct Income Withholding.

"Direct income withholding" means an income withholding order that has been issued in one state and sent to an employer in another state without filing a petition or comparable pleading, or registering the order with the tribunal in the other state.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4940, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 117025 to new section 110268 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110276. Disbursed or Disbursement.

"Disbursed" or "disbursement" means the dispensing or paying out of a collection.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110224 to new section 110276 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110280. Disposable Earnings.

"Disposable earnings" means income that is subject to withholding left after making mandatory deductions for taxes including State, federal, local, Social Security, Medicare taxes and union dues, along with deductions for disability insurance and payments to public employees' retirement systems, provided that the deductions are required as a condition of employment.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110226 to new section 110280 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110284. Federal Case Registry.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: 42 United States Code, Sections 653, 654 and 666; and 45 Code of Federal Regulations, Sections 302.35, 303.15 and 303.69.

HISTORY

1. New section filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2–14–2002 order transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).
5. Change without regulatory effect renumbering former section 110284 to new section 110347 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110288. Distributed or Distribution.

"Distributed" or "distribution" means the application of monies to specific accounts to determine the appropriate disbursement of monies.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110230 to new section 110288 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110289. Federal Parent Locator Service.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17212, Family Code; Section 11478.1, Welfare and Institutions Code; 42 United States Code, Section 653; and 45 Code of Federal Regulations, Section 301.1.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110289 to section 110355 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110292. Domestic Violence.

"Domestic violence" means abuse perpetrated against any of the following persons:

(a) A spouse or former spouse.

(b) A cohabitant or former cohabitant, as defined in Section 6209, Family Code.

(c) A person with whom the individual who perpetrated the act of domestic violence is having or has had a dating or engagement relationship.

(d) A person with whom the individual who perpetrated the act of domestic violence has had a child, where the presumption applies that the male parent is the father of the child of the female parent under the Uniform Parentage Act (Part 3 of Division 12 commencing with Section 7600) of the Family Code.

(e) A child of a party or a child who is the subject of an action under the Uniform Parentage Act, where the presumption applies that the male parent is the father of the child to be protected.

(f) Any other person related by blood or marriage, such as grandparents, parents, aunts, uncles, and children.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 112025 to new section 110292 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110296. Earnings.

"Earnings" means any of the following to the extent that they are subject to an income withholding order for support:

(a) Wages, salary, bonuses, vacation pay, retirement pay and commissions.

(b) Payments for services of independent contractors, interest, dividends, rents, royalties, residuals, patent rights, or mineral or other natural resource rights.

(c) Payments or credits due or becoming due as a result of a written or oral contract for services or sales whether denominated as wages, salary, commission, bonus, or otherwise.

(d) Payments due for workers' compensation temporary disability benefits.

(e) Payments due from a disability or health insurance policy or program.

(f) Any other payments or credits due or becoming due, regardless of the source.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 706.011(a), Code of Civil Procedure; and Sections 4901(e) and 5206, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110242 to new section 110296 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110299. Foster Care.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: 42 United States Code, Section 654; and 45 Code of Federal Regulations, Section 302.33.

HISTORY

1. New section filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2–14–2002 order transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).
5. Change without regulatory effect renumbering former section 110299 to new section 110383 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110307. Emancipation.

"Emancipation", "Emancipate" and "Emancipated" mean the age or circumstance in which a child is no longer entitled to current child support from a parent because of any one of the following:

(a) The child meets the conditions set forth in Family Code Section 3901.

(b) The judgment, decree or order directing the child support was terminated by order of the court.

(c) The judgment, decree or order directing the child support was terminated under the law of the issuing state.

(d) The child support ordered pursuant to Family Code Section 3587 has ceased or was terminated.

(e) The child meets at least one of the conditions set forth in Family Code Section 7002.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 3901, 3587, 7002, 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110248 to new section 110307 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110311. Employer.

"Employer" means all of the following:

(a) A person for whom an individual performs services as an employee, as defined in Section 706.011, Code of Civil Procedure.

(b) The United States government and any public entity as defined in Section 811.2, Government Code.

(c) Any person or entity paying the following types of earnings:

(1) Wages, salary, bonus, money and benefits described in Sections 704.110, 704.113 and 704.115 of the Code of Civil Procedure.

(2) Payments due for services of independent contractors, interest, dividends, rents, royalties, residuals, patent rights, or mineral or other natural resource rights.

(3) Payments or credits due or becoming due as a result of written or oral contracts for services or sales whether denominated as wages, salary, commission, bonus, or otherwise.

(4) Payments due for workers' compensation temporary disability benefits.

(5) Payments due as a result of disability from benefits described in Section 704.130 of the Code of Civil Procedure.

(6) Any other payments or credits due or becoming due, regardless of source.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 3760, 5206 and 5210, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110250 to new section 110311 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110315. Employment–Related Group Health Insurance.

"Employment–related group health insurance" means private group health insurance coverage provided through employment or membership in a union, trade association, or other organization.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110251 to new section 110315 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110319. Enforcement.

"Enforcement" means actions taken to obtain payment of a child, family, medical, or spousal support obligation contained in a child support order.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17212 and 17801, Family Code; and Section 11478.1, Welfare and Institutions Code.

HISTORY

1. Change without regulatory effect renumbering former section 110252 to new section 110319 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110323. Establishment.

"Establishment" means the process of legally determining paternity and/or obtaining a court or administrative order to put a child support obligation in place.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17212 and 17801, Family Code; and Section 11478.1, Welfare and Institutions Code.

HISTORY

1. Change without regulatory effect renumbering former section 110261 to new section 110323 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110336. Health Insurance Coverage.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 3750 and 3760, Family Code; and 45 Code of Federal Regulations, Section 303.31.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).
5. Change without regulatory effect renumbering former section 110336 to section 110410 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110337. Health Insurance Coverage at a Reasonable Cost.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 3751(a)(2) and 17422(b)(3), Family Code; and 45 Code of Federal Regulations, Section 303.31.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).
5. Change without regulatory effect renumbering former section 110337 to new section 110414 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110339. Family Violence.

"Family violence" means domestic violence as defined in Section 110292, or child abuse as defined in Section 110140.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 112034 to new section 110339, including amendments, filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110341. Hearing Date.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17801, 17802 and 17804, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110341 to new section 110418 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110343. Family Violence Indicator.

"Family violence indicator" means the designation of a party in a case or order by a state that indicates that party is associated with an act of child abuse or domestic violence. This indicator resides in the Federal Case Registry and is used to prevent disclosure of the location of a party and/or a child believed by a state to be at risk of family violence.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: 42 United States Code, Section 663.

HISTORY

1. Change without regulatory effect renumbering former section 112035 to new section 110343 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110347. Federal Case Registry.

"Federal Case Registry" means a national database of information on individuals in all Title IV–D cases, and on all non–Title IV–D orders entered or modified on or after October 1, 1998. The Federal Case Registry is part of the expanded Federal Parent Locator Service, which is maintained by the federal Office of Child Support Enforcement.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: 42 United States Code, Sections 653, 654 and 666; and 45 Code of Federal Regulations, Sections 302.35, 303.15 and 303.69.

HISTORY

1. Change without regulatory effect renumbering former section 110284 to new section 110347 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110355. Federal Parent Locator Service.

"Federal Parent Locator Service (FPLS)" means a computerized national location network operated by the federal Office of Child Support Enforcement (OCSE) within the Department of Health and Human Services (DHHS). FPLS obtains address and employer information, as well as data on child support cases in every state, compares them and returns matches to the appropriate states. FPLS includes the Federal Case Registry (FCR) and the National Directory of New Hires (NDNH).

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17212, Family Code; Section 11478.1, Welfare and Institutions Code; 42 United States Code, Section 653; and 45 Code of Federal Regulations, Section 301.1.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).
5. Change without regulatory effect renumbering former section 110355 to section 110430 and renumbering former section 110289 to section 110355 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110374. Interstate Case.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17306, Family Code; and 45 Code of Federal Regulations, Section 303.7.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order, including amendment of section and NOTE, transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).
4. Change without regulatory effect renumbering former section 110374 to section 110466 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110375. Foreign Order.

"Foreign order" means an order issued by a tribunal of a jurisdiction outside of California.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4951, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 117030 to new section 110375 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110383. Foster Care.

"Foster care" means the 24–hour out–of–home care provided to children whose own families are unable or unwilling to care for them, and who are in need of temporary or long–term substitute parenting.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: 42 United States Code, Section 654; and 45 Code of Federal Regulations, Section 302.33.

HISTORY

1. Change without regulatory effect renumbering former section 110299 to new section 110383 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110385. Income Withholding Order.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 4901 and 5208, Family Code.

HISTORY

1. New section filed 3–25–2002 as an emergency; operative 3–25–2002 (Register 2002, No. 13). A Certificate of Compliance must be transmitted to OAL by

9–23–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 8–22–2002 as an emergency; operative 8–22–2002 (Register 2002, No. 34). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 2–18–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8–22–2002 order, including repealer of section, transmitted to OAL 2–13–2003 and filed 3–24–2003 (Register 2003, No. 13).

§ 110402. Guardian.

"Guardian" means the legal guardian of the child, who assumed care and control of the child while the child was in the guardian's control, and who is not a biological or adoptive parent.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17550, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 119045 to new section 110402 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110410. Health Insurance Coverage.

"Health insurance coverage" means the provisions for the delivery of both of the following:

(a) Health care services by a fee for service, health maintenance organization, preferred provider organization, or any other type of health care delivery system under which medical services could be provided to a dependent child of an obligor.

(b) Vision care and dental care services whether the vision care or dental care coverage is included in health insurance coverage or is issued as a separate policy or plan.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 3750 and 3760, Family Code; and 45 Code of Federal Regulations, Section 303.31.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110410 to new section 110506 and renumbering former section 110336 to section 110410 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110411. Local Plan of Cooperation.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17304, Family Code.

HISTORY

1. New section filed 5–2–2002 as an emergency; operative 5–2–2002 (Register 2002, No. 18). Pursuant to Family Code section 17306(e)(2), these emergency regulations remain in effect for 180 days. A Certificate of Compliance must be transmitted to OAL by 10–29–2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5–2–2002 order transmitted to OAL 10–16–2002 and filed 12–2–2002 (Register 2002, No. 49).
3. Change without regulatory effect renumbering former section 110411 to new section 110510 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110413. Locate or Location.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17502, 17505 and 17506, Family Code; 42 United States Code, Section 653; and 45 Code of Federal Regulations, Section 303.3.

HISTORY

1. New section filed 9–4–2001 as an emergency pursuant to Family Code section 17306; operative 9–4–2001 (Register 2001, No. 36). A Certificate of Compliance must be transmitted to OAL by 3–4–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2–11–2002 as an emergency pursuant to Family Code section 17306; operative 3–6–2002 (Register 2002, No. 7). A Certificate of Compliance must be transmitted to OAL by 9–3–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 27).
4. Certificate of Compliance as to 2–11–2002 order, including amendment of NOTE, transmitted to OAL 9–3–2002 and filed 9–30–2002 (Register 2002, No. 40).
5. Change without regulatory effect renumbering former section 110413 to new section 110514 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110414. Health Insurance Coverage at a Reasonable Cost.

"Health insurance coverage at a reasonable cost" means employment–related group health insurance or other group health insurance, regardless of the service delivery mechanism.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 3751(a)(2) and 17422(b)(3), Family Code; and 45 Code of Federal Regulations, Section 303.31.

HISTORY

1. Change without regulatory effect renumbering former section 110337 to new section 110414 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110418. Hearing Date.

"Hearing date" means the date of the state hearing which shall be deemed to include the period from the opening of the record to the close of the record, including any continuances that may have been granted.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17801, 17802 and 17804, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110341 to new section 110418 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110422. Home State.

"Home state" means the state in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support, and, if a child is less than six months old, the state in which the child lived from birth with a parent or a person acting as the parent. A period of temporary absence of the child from the parent or person acting as the parent shall be counted as part of the six–month or other period.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4901, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 117036 to new section 110422 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110428. Medi–Cal Program.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17400 and 17415, Family Code; and 45 Code of Federal Regulations, Sections 301.1 and 302.33.

HISTORY

1. New section filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2–14–2002 order transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).
5. Change without regulatory effect renumbering former section 110428 to new section 110542 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110430. Income Withholding Order.

"Income withholding order," "assignment order," "assignment order for support," "earnings assignment order," and "wage assignment order" means a court order or administrative notice for income withholding, or legal process directed to an obligor's employer, or other debtor of the obligor, to withhold from the income of the obligor an amount owed for support. Any income withholding order, or assignment order, or assignment order for support, or earnings assignment order, or wage assignment order issued by a local child support agency shall be issued on the federal form "Order/Notice to Withhold Income for Child Support," FL–195

OMB Control No. 0970–0154 as adopted by the California Judicial Council.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. References: Sections 4901(f), 5208 and 5246, Family Code.

HISTORY

1. New section filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2–14–2002 order, including amendment of section, transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).
5. Change without regulatory effect renumbering former section 110430 to new section 110546 and renumbering former section 110355 to section 110430 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110431. Medical Support.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 3750, 3751, 4062, 4063, 17400 and 17415, Family Code; and 45 Code of Federal Regulations, Sections 302.80, 303.30 and 303.31.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. Amendment of NOTE filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
4. Amendment of NOTE refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
5. Editorial correction of HISTORY 4 (Register 2002, No. 33).
6. Certificate of Compliance as to 2–14–2002 order, including amendment of section and NOTE, transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).
7. Change without regulatory effect renumbering former section 110431 to section 110550 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).
8. Editorial correction reinstating section and adding HISTORY 7 (Register 2006, No. 14).

§ 110434. Independent Contractor Registry.

"Independent Contractor Registry" means a database maintained by the Employment Development Department which contains information regarding independent contractors reported in California, as required in Section 1088.8, Unemployment Insurance Code.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 5206, Family Code; and Section 1088.8, Unemployment Insurance Code.

HISTORY

1. Change without regulatory effect renumbering former section 116036 to new section 110434 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110436. Modification.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110436 to new section 110562 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110445. National Directory of New Hires.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: 42 United States Code, Section 653(h).

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of NOTE, transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110445 to new section 110566 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110446. Initiating State.

"Initiating state" means a state from which a proceeding is forwarded, or in which a proceeding is filed for forwarding, to a responding state.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4901, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 117047 to new section 110446 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110449. National Medical Support Notice.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 3760 and 3761, Family Code.

HISTORY

1. New section filed 3–25–2002 as an emergency; operative 3–25–2002 (Register 2002, No. 13). A Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 8–22–2002 as an emergency; operative 8–22–2002 (Register 2002, No. 34). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 2–18–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8–22–2002 order transmitted to OAL 2–13–2003 and filed 3–24–2003 (Register 2003, No. 13).
4. Change without regulatory effect renumbering former section 110449 to new section 110570 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110450. Initiating Tribunal.

"Initiating tribunal" means the court, administrative agency, or quasi–judicial entity in an initiating state authorized to establish, enforce, or modify support orders or to determine paternity.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4901, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 117049 to new section 110450 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110456. Noncustodial Parent.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17212, 17800, 17801, 17802 and 17803, Family Code; and Section 11478.1, Welfare and Institutions Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110456 to new section 110582 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110458. Intercounty Responding Case.

"Intercounty responding case" means a case in which the noncustodial parent and the custodial party live in different counties within California and the county in which the noncustodial parent resides receives and responds to a child support action for the purpose of enforcement.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 116038 to new section 110458 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110466. Interstate Case.

"Interstate case" means a case in which the dependent child(ren) and the custodial or noncustodial parent live or have lived in different states and California is either the initiating or responding state, or the state which has issued the controlling order.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17306, Family Code; and 45 Code of Federal Regulations, Section 303.7.

HISTORY

1. Change without regulatory effect renumbering former section 110374 to section new section 110466 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110470. Intracounty Case.

"Intracounty case" means a case in which only one county is providing Title IV–D services.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 116042 to new section 110470 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110473. Obligee.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2–14–2002 order, including amendment of section, transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).
5. Change without regulatory effect renumbering former section 110473 to new section 110590 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110474. Issuing State.

"Issuing state" means the state which has issued a support order or rendered a judgment determining parentage.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4901, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Amendment of NOTE filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
5. Amendment of NOTE refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
7. Amendment of NOTE filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).
8. Change without regulatory effect renumbering former section 110474 to new section 110594 and renumbering former section 117052 to section 110474 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110478. Issuing Tribunal.

"Issuing tribunal" means the court, administrative agency, or quasi–judicial entity that issues a support order or renders a judgment determining parentage.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4901, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110478 to new section 110598 and renumbering former section 117054 to section 110478 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110479. Ombudsperson Program.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110479 to new section 110602 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110485. Other Group Health Insurance.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).
5. Change without regulatory effect renumbering former section 110485 to new section 110606 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110506. Local Child Support Agency.

"Local child support agency" means the county office or department that has entered into a cooperative agreement with the California Department of Child Support Services to secure child, spousal and medical support, and determine paternity.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17000, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110410 to new section 110506 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110510. Local Plan of Cooperation.

"Local Plan of Cooperation" means a cooperative agreement between a local child support agency and another county agency that coordinates their respective roles and delineates responsibilities for establishing paternity, establishing, modifying, and enforcing child support, spousal support, and medical support, or otherwise carrying out the requirements of Title IV–D.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17304, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110411 to new section 110510 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110514. Locate or Location.

"Locate" or "Location" means information concerning the physical whereabouts of the custodial party, non–custodial parent, noncustodial parent's employers, or the noncustodial parent's sources of income or assets which is used for the purpose of establishing paternity and establishing, modifying and/or enforcing a child support obligation.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17502, 17505 and 17506, Family Code; 42 United States Code, Section 653; and 45 Code of Federal Regulations, Section 303.3.

HISTORY

1. Change without regulatory effect renumbering former section 110413 to new section 110514 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110518. Long Arm Jurisdiction.

"Long arm jurisdiction" means the legal authority for one state to assert personal jurisdiction over someone who lives or is served with process in another state.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4905, Family Code.

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HISTORY

1. Change without regulatory effect renumbering former section 117064 to new section 110518 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110539. Public Assistance.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17000, 17400, 17406 and 17415, Family Code.

HISTORY

1. New section filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2–14–2002 order transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).
5. Change without regulatory effect renumbering former section 110539 to new section 110682 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110542. Medi–Cal Program.

"Medi–Cal program" means California's medical assistance program provided under the State Plan approved under Title XIX of the Social Security Act.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17400 and 17415, Family Code; and 45 Code of Federal Regulations, Sections 301.1 and 302.33.

HISTORY

1. Change without regulatory effect renumbering former section 110428 to new section 110542 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110546. Medically Needy Only Recipient.

"Medically needy only recipient" means an individual who is receiving only benefits under the Medi–Cal program.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17400 and 17415, Family Code; and 45 Code of Federal Regulations, Sections 302.80, 303.30 and 303.31.

HISTORY

1. Change without regulatory effect renumbering former section 110430 to new section 110546 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110547. Quash.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 3765, Family Code.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).
5. Change without regulatory effect renumbering former section 110547 to new section 110686 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110550. Medical Support.

"Medical support" means the court–ordered requirement that one or both parents provide health, vision, and dental coverage, for a dependent child.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 3750, 3751, 4062, 4063, 17400 and 17415, Family Code; and 45 Code of Federal Regulations, Sections 302.80, 303.30 and 303.31.

HISTORY

1. New section filed 9–4–2001 as an emergency pursuant to Family Code section 17306; operative 9–4–2001 (Register 2001, No. 36). A Certificate of Compliance must be transmitted to OAL by 3–4–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2–11–2002 as an emergency pursuant to Family Code section 17306; operative 3–6–2002 (Register 2002, No. 7). A Certificate of Compliance must be transmitted to OAL by 9–3–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 27).
4. Certificate of Compliance as to 2–11–2002 order transmitted to OAL 9–3–2002 and filed 9–30–2002 (Register 2002, No. 40).
5. Change without regulatory effect renumbering former section 110550 to new section 110690 and renumbering former section 110431 to section 110550 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110554. Recipient of Services.

"Recipient of services" means the custodial party or noncustodial parent who has applied for, or is receiving, Title IV–D services, or has been referred to the Title IV–D agency.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: 45 Code of Federal Regulation, Section 303.11.

HISTORY

1. New section filed 3–25–2002 as an emergency; operative 3–25–2002 (Register 2002, No. 13). A Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 8–22–2002 as an emergency; operative 8–22–2002 (Register 2002, No. 34). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 2–18–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8–22–2002 order transmitted to OAL 2–13–2003 and filed 3–24–2003 (Register 2003, No. 13).

§ 110562. Modification.

"Modification" means a court–ordered change or alteration of a child support order.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110436 to new section 110562 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110566. National Directory of New Hires.

"National Directory of New Hires" means a national database containing new hire and quarterly wage data from every state and federal agency and unemployment insurance data from state employment security agencies. Data contained is first reported to each state's State Directory of New Hires and then transmitted to the National Directory of New Hires. The Office of Child Support Enforcement maintains the National Directory of New Hires as part of the expanded Federal Parent Locator Service.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: 42 United States Code, Section 653(h).

HISTORY

1. Change without regulatory effect renumbering former section 110445 to new section 110566 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110570. National Medical Support Notice.

"National Medical Support Notice" means the notice, "National Medical Support Notice (NMSA)," Part A, "Notice to Withhold for Health Care Coverage,", OMB 0970–0222, and Part B, "Medical Support Notice to Plan Administrator," OMB 1210–0113, directed to the obligor's employer pursuant to a medical support order requiring the obligor to provide health insurance coverage for the obligor's minor child(ren).

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 3760 and 3761, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110449 to new section 110570 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110582. Noncustodial Parent.

"Noncustodial parent" means the parent of the child(ren) that may be or is obligated to pay child support.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17212, 17800, 17801, 17802 and 17803, Family Code; and Section 11478.1, Welfare and Institutions Code.

HISTORY

1. Change without regulatory effect renumbering former section 110456 to new section 110582 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110590. Obligee.

"Obligee" means an individual, agency, or entity to whom a duty of support is owed.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110473 to new section 110590 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110594. Obligor.

"Obligor" means an individual, or the estate of a decedent, who owes a duty of support.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 5216 and 17212, Family Code; and Section 11478.1, Welfare and Institutions Code.

HISTORY

1. Change without regulatory effect renumbering former section 110474 to new section 110594 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110598. Ombudsperson.

"Ombudsperson" means the person designated within each local child support agency to be the lead administrator of the Ombudsperson Program.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110478 to new section 110598 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110602. Ombudsperson Program.

"Ombudsperson Program" means the person, persons, or office so designated within each local child support agency to provide a means to resolve customer issues related to child support services. Issues may include inquiries, questions, or requests for assistance or facilitation in navigating the local complaint resolution and state hearing processes.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110479 to new section 110602 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110606. Other Group Health Insurance.

"Other group health insurance" means private group health insurance coverage provided through an organization other than through an employment–related group health insurance.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110485 to new section 110606 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110609. Spousal Support.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17212, 17415, 17800 and 17801, Family Code; and Section 11478.1, Welfare and Institutions Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. Amendment of NOTE filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
4. Amendment of NOTE refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
5. Editorial correction of HISTORY 4 (Register 2002, No. 33).
6. Certificate of Compliance as to 2–14–2002 order transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).
7. Change without regulatory effect renumbering former section 110609 to new section 110754 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110610. Spousal Support Order.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17212, 17800 and 17801, Family Code; and Section 11478.1, Welfare and Institutions Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110610 to new section 110758 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110615. State Directory of New Hires.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: 42 United States Code, Section 653a.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).
5. Change without regulatory effect renumbering former section 110615 to new section 110770 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110618. State Hearing.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17801, 17802 and 17804, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110618 to new section 110778 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110625. State/County Plan of Cooperation.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17304, Family Code.

HISTORY

1. New section filed 5–2–2002 as an emergency; operative 5–2–2002 (Register 2002, No. 18). Pursuant to Family Code section 17306(e)(2), these emergency regulations remain in effect for 180 days. A Certificate of Compliance must be transmitted to OAL by 10–29–2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5–2–2002 order transmitted to OAL 10–16–2002 and filed 12–2–2002 (Register 2002, No. 49).

3. Change without regulatory effect renumbering former section 110625 to new section 110766 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110654. Personal Jurisdiction.

"Personal jurisdiction" means the legal authority of a tribunal to render judgment against a party to an action or a proceeding and subject a person to the decisions, rulings, and orders of the tribunal.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4905, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 117074 to new section 110654 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110658. Placement.

"Placement" means either the voluntary placement by an applicant who had custody of his/her child and placed the child in out–of–home care or the placement of a child in out–of–home care as a result of a child being declared a dependent child of the court under Welfare and Institutions Code Section 300.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 361(e) and 11400(k), Welfare and Institutions Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110658 to new section 110842 and renumbering of former section 119069 to section 110658 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110659. Title IV–B.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110659 to new section 110846 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110660. Title IV–D.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17000(*l*), Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Amendment of NOTE filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
5. Amendment of NOTE refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
7. Amendment of NOTE filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).
8. Change without regulatory effect renumbering former section 110660 to new section 110850 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110661. Title IV–E.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 110661 to new section 110854 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110662. Plan Administrator.

"Plan Administrator" for the purposes of Subchapter 6.1, Article 2, Medical Enforcement, means any person who collects any charge or premium from, or who adjusts or settles claims on, residents of California in connection with health insurance coverage.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 116061 to new section 110662 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110678. Proposed Decision.

"Proposed decision" means the state hearing decision submitted by an Administrative Law Judge to the Director or Director's designee for adoption.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 120004 to new section 110678 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110682. Public Assistance.

"Public assistance" means any amount paid under the CalWORKs program, as specified in Section 110112, or foster care, or any Medi–Cal benefit, for the benefit of any dependent child or the caretaker of a child.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17000, 17400, 17406 and 17415, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110539 to new section 110682, including amendments, filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110686. Quash.

"Quash" means to cancel by judicial order.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 3765, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110547 to new section 110686 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110690. Quick Locate.

"Quick locate" means a request for locate services from one state's parent locator service to another state's parent locator service with the responding state providing those services without opening a Title IV–D case.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110550 to new section 110690 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110694. Real Property.

"Real property" means real estate or property, such as, land and buildings that are permanent, fixed, and immovable.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 116062 to new section 110694 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110698. Real Property Lien.

"Real property lien" means a charge against real property, as defined in Section 110694, to secure payment of a support obligation at the time of sale or transfer of real property.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 116063 to new section 110698 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110710. Register.

"Register" means a legal process by which a support order or judgment is filed with a tribunal in a state to give that tribunal authority to modify or enforce a support order.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4950, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 117080 to new section 110710 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110718. Relative Caregiver.

"Relative caregiver" means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great–great," or "grand" or the spouse of any of those persons even if the marriage was terminated by death or dissolution and who assumed primary responsibility for the child while the child was in the relative's care and control, and who is not a biological or adoptive parent.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17550, Family Code; and Section 11362(c), Welfare and Institutions Code.

HISTORY

1. Change without regulatory effect renumbering former section 119076 to new section 110718 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110730. Responding State.

"Responding state" means a state in which a proceeding to establish, enforce or modify a support order, or to determine paternity is filed or to which a proceeding is forwarded for filing from an initiating state.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4901, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 117083 to new section 110730 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110734. Responding Tribunal.

"Responding tribunal" means the court, administrative agency, or quasi–judicial entity in a responding state authorized to establish, enforce or modify support orders, or to determine paternity.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4901, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 117085 to new section 110734 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110754. Spousal Support.

"Spousal support" means a legally enforceable obligation assessed against an individual for the support of a spouse or former spouse who is living with a child or children for whom the individual also owes support.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17212, 17415, 17800 and 17801, Family Code; and Section 11478.1, Welfare and Institutions Code.

HISTORY

1. Change without regulatory effect renumbering former section 110609 to new section 110754 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110758. Spousal Support Order.

"Spousal support order" means an order for the payment of spousal support to a spouse or former spouse of the obligor.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17212, 17800 and 17801, Family Code; and Section 11478.1, Welfare and Institutions Code.

HISTORY

1. Change without regulatory effect renumbering former section 110610 to new section 110758 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110762. State.

"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term "state" also includes both of the following:

(a) An Indian tribe, including a Native Alaskan Village as defined in 42 United States Code, Section 619.

(b) A foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under the Uniform Interstate Family Support Act specified in Chapter 6, of Part 5, of Division 9 (commencing with Section 4900) of the Family Code.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4901, Family Code; and 42 United States Code, Section 619(4)(A–B).

HISTORY

1. Change without regulatory effect renumbering former section 117089 to new section 110762 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110766. State/County Plan of Cooperation.

"State/County Plan of Cooperation" means the cooperative agreement between the Department and each local child support agency that identifies the local child support agency's roles and responsibilities for establishing paternity, establishing, modifying, and enforcing child support, spousal support, and medical support, or otherwise carrying out the requirements of Title IV–D.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17304, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110625 to new section 110766 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110770. State Directory of New Hires.

"State Directory of New Hires (SDNH)" means a database maintained by each state that contains information regarding employees who are newly hired in the respective state.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: 42 United States Code, Section 653a.

HISTORY

1. Change without regulatory effect renumbering former section 110615 to new section 110770 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110778. State Hearing.

"State hearing" means an administrative hearing mandated by state law whereby a complainant may obtain an impartial review of a local child support agency or Franchise Tax Board action or inaction regarding a child support case.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17801, 17802 and 17804, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110618 to new section 110778 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110782. State Hearing Office.

"State Hearing Office" means the division that conducts state hearings in the office or agency designated by the Department to carry out state hearings.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17801, 17802, 17803 and 17804, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 120005 to new section 110782 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110794. Subject Matter Jurisdiction.

"Subject matter jurisdiction" means a tribunal's authority to hear and determine the issues presented in a case brought before it.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4905, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 117091 to new section 110794 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110842. Title IV–A.

"Title IV–A" means Title IV of the federal Social Security Act, Part A, Block Grants to States for Temporary Assistance for Needy Families, codified at 42 USC, Section 601, et seq.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110658 to new section 110842 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110846. Title IV–B.

"Title IV–B" means Title IV of the federal Social Security Act, Part B, Child and Family Services, codified at 42 USC, Section 620 et seq.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110659 to new section 110846 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110850. Title IV–D.

"Title IV–D" means Title IV of the federal Social Security Act, Part D, Child Support and Establishment of Paternity, codified at 42 USC, Section 651 et seq.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17000(*l*), Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110660 to new section 110850 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110854. Title IV–E.

"Title IV–E" means Title IV of the federal Social Security Act, Part E, Federal Payments for Foster Care and Adoption Assistance, codified at 42 USC, Section 670 et seq.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 110661 to new section 110854 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 110858. Tribunal.

"Tribunal" means a court, administrative agency, or quasi–judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 4901 and 4902, Family Code.

HISTORY

1. Change without regulatory effect renumbering former section 117094 to new section 110858 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

Article 2. (Reserved)

Article 3. Plans of Cooperation

§ 111110. Components of State/County Plan of Cooperation.

(a) The Department shall annually develop and enter into a State/County Plan of Cooperation with each local child support agency.

(b) The State/County Plan of Cooperation shall set forth the local child support agency's responsibilities for administering Title IV–D services and carrying out the state plan, including, but not limited to, locating custodial and non–custodial parents, establishment of paternity, the establishment, modification, and enforcement of child support and medical support orders, enforcement of spousal support orders, collection and distribution of child support, and the preparation of reports and maintenance of records

(c) The State/County Plan of Cooperation shall, at a minimum, include all of the following:

(1) A clear description of the specific duties, functions and responsibilities of each party.

(2) Clear and definite standards of performance the local child support agency must meet.

(3) A specific statement that the parties will comply with Title IV–D, implementing federal regulations and any other applicable state and federal laws, regulations and requirements.

(4) The financial arrangements between the parties.

(5) A description of records that shall be maintained and the methods that will be employed to safeguard these records as required by Article 5 of Subchapter 1 of this chapter relating to records management.

(6) A statement of the specific dates on which the State/County Plan of Cooperation begins and ends.

(7) A statement describing any conditions for revision or renewal, and the circumstances under which the State/County Plan of Cooperation may be terminated.

(d) The State/County Plan of Cooperation shall also include the Annual Automation Cooperation Agreement between the Department and the local child support agency specifying the responsibilities, activities, milestones and consequences in regard to automation, as specified in Section 10081 of the Welfare and Institutions Code.

(e) The Department may also include in the State/County Plan of Cooperation special contract provisions detailing the responsibility of the local child support agency for carrying out new initiatives or programs defined by the Department or necessary to address the need for program improvement by a local child support agency.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17304, Family Code; Section 10081, Welfare and Institutions Code; and 45 Code of Federal Regulations, Section 303.107.

HISTORY

1. New article 3 (sections 111110–111230) and section filed 5–2–2002 as an emergency; operative 5–2–2002 (Register 2002, No. 18). Pursuant to Family Code section 17306(e)(2), these emergency regulations remain in effect for 180 days. A Certificate of Compliance must be transmitted to OAL by 10–29–2002 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 5–2–2002 order, including amendment of subsections (c)(1), (d) and (e), transmitted to OAL 10–16–2002 and filed 12–2–2002 (Register 2002, No. 49).

§ 111120. General Requirements of State/County Plan of Cooperation.

(a) The State/County Plan of Cooperation shall be one year in duration, commencing at the start of the federal fiscal year, and shall be subject to renewal or amendment as necessary to reflect new or revised state and federal laws, regulations and requirements. Failure of the parties to amend the State/County Plan of Cooperation to reflect new or revised state and federal laws and regulations does not relieve the local child support agency of the responsibility to act in accordance with those laws, regulations, and requirements.

(b) The State/County Plan of Cooperation shall be signed by the director of the local child support agency and returned to the Department by the commencement of the federal fiscal year.

(c) Failure to sign and return the State/County Plan of Cooperation by the start of each federal fiscal year may result in the withholding of part or all of the state or federal funds, including incentive funds, or other compliance actions authorized by state or federal law, regulation or policy.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17304, Family Code; and 45 Code of Federal Regulations, Section 303.107.

HISTORY

1. New section filed 5–2–2002 as an emergency; operative 5–2–2002 (Register 2002, No. 18). Pursuant to Family Code section 17306(e)(2), these emergency regulations remain in effect for 180 days. A Certificate of Compliance must be transmitted to OAL by 10–29–2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5–2–2002 order, including amendment of section heading and section, transmitted to OAL 10–16–2002 and filed 12–2–2002 (Register 2002, No. 49).

§ 111210. Authority.

(a) Each local child support agency shall have the authority to enter into a Local Plan of Cooperation with other county agencies, with approval by the Department, to assist in carrying out the local child support agency's responsibilities under the State/County Plan of Cooperation.

(b) When a local child support agency, through a Local Plan of Cooperation, delegates responsibility to provide child support services to another county agency that is not a local child support agency, the local child support agency shall retain responsibility and accountability to the Department for operating, supervising, managing or overseeing Title IV–D functions of the local child support agency under the provisions of the Local Plan of Cooperation.

(c) Nothing in this Article is intended to affect cooperative agreements entered into between local child support agencies and the superior court.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17304, Family Code.

HISTORY

1. New section filed 5–2–2002 as an emergency; operative 5–2–2002 (Register 2002, No. 18). Pursuant to Family Code section 17306(e)(2), these emergency regulations remain in effect for 180 days. A Certificate of Compliance must be transmitted to OAL by 10–29–2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5–2–2002 order, including amendment of subsection (b) and new subsection (c), transmitted to OAL 10–16–2002 and filed 12–2–2002 (Register 2002, No. 49).

§ 111220. Requirements of Local Plan of Cooperation.

(a) Each Local Plan of Cooperation shall, at a minimum, include all of the following:

(1) A clear description of the specific duties, functions, and responsibilities of each party.

(2) Clear and definite standards of performance the county agency that is entering into the Local Plan of Cooperation with the local child support agency must meet.

(3) A specific statement that the parties shall comply with all state and federal laws, regulations and requirements relative to the subject of the Local Plan of Cooperation.

(4) The financial arrangements between the parties.

(5) A description of records that shall be maintained and the methods that will be employed to safeguard these records as required by Article 5 of Subchapter 1 of this chapter relating to records management.

(6) A statement of the specific dates on which the Local Plan of Cooperation begins and ends.

(7) A statement describing any conditions for termination, and revision or renewal upon written agreement of both parties, including a statement that any provision of the Local Plan of Cooperation which conflicts with new or revised state and federal laws, regulations, and requirements, shall be deemed to be amended consistent with those laws, regulations, and requirements.

(8) Provisions for effective monitoring of the other county agency's performance under the Local Plan of Cooperation, including, but not limited to:

(A) Periodic meetings between parties.

(B) On–site review by the local child support agency.

(C) Records review.

(9) Provisions for corrective action when review of the other county agency's contract performance indicates a deficiency in performance.

(b) A Local Plan of Cooperation shall not exceed three years in duration, subject to annual review and approval by the Department to ensure ongoing consistency with the State/County Plan of Cooperation.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17304, Family Code; and 45 Code of Federal Regulations, Section 303.107.

HISTORY

1. New section filed 5–2–2002 as an emergency; operative 5–2–2002 (Register 2002, No. 18). Pursuant to Family Code section 17306(e)(2), these emergency regulations remain in effect for 180 days. A Certificate of Compliance must be transmitted to OAL by 10–29–2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5–2–2002 order transmitted to OAL 10–16–2002 and filed 12–2–2002 (Register 2002, No. 49).

§ 111230. Approval of Local Plan of Cooperation.

(a) A local child support agency shall submit any Local Plan of Cooperation to the Department for review and approval.

(1) Within 60 days of receipt of a Local Plan of Cooperation from the local child support agency, the Department shall either approve the Local Plan of Cooperation or notify the agency that the Local Plan of Cooperation is denied.

(2) If the Department fails to respond in writing within 60 days of receipt of a Local Plan of Cooperation, the Local Plan of Cooperation shall be deemed approved.

(3) If the local child support agency is notified that the Local Plan of Cooperation is denied, the agency may submit a revised Local Plan of Cooperation to the Department for further consideration.

(b) The Department shall review a Local Plan of Cooperation for appropriateness, necessity, and cost reasonableness.

(c) Costs associated with a Local Plan of Cooperation must be approved as part of the budget process.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17304, Family Code.

HISTORY

1. New section filed 5–2–2002 as an emergency; operative 5–2–2002 (Register 2002, No. 18). Pursuant to Family Code section 17306(e)(2), these emergency regulations remain in effect for 180 days. A Certificate of Compliance must be transmitted to OAL by 10–29–2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5–2–2002 order transmitted to OAL 10–16–2002 and filed 12–2–2002 (Register 2002, No. 49).

Article 4. Standards for Local Program Operations (Reserved)

Article 5. Records Management

§ 111420. Record Maintenance.

Each local child support agency shall maintain records necessary for the administration of the Title IV–D program, and the date of each, including all of the following:

(a) Applications for child support services.

(b) Actions to locate noncustodial parents, to establish paternity and to obtain, modify, and enforce support orders, including medical support, and the costs incurred in such actions. This includes any relevant facts and actions taken by the local child support agency and the results of such action.

(c) The amounts and sources of support collections and the distribution of these collections.

(d) Any fees charged or paid for support enforcement services, or any other administrative costs.

(e) Any statistical, fiscal, and other records necessary for reporting and accountability pursuant to 45 Code of Federal Regulations, Section 302.15(a)(7).

(f) All records pertaining to complaint resolution specified in Chapter 10.

(g) Any other information and documents not required by subsections (a) through (f) pertaining to the case.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: 45 Code of Federal Regulations, Sections 302.15 and 303.2.

HISTORY

1. New article 5 (sections 111420–111460) and section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New article 5 (sections 111420–111460) and section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of first paragraph and subsection (b), transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 111430. Safeguarding and Confidentiality of Child and Spousal Support Information.

(a) Child and spousal support information used in the administration of the Title IV–D Program shall be considered confidential and shall not be disclosed for any purpose not directly connected with the administration of the child and spousal support enforcement program, unless expressly authorized under this Article. For the purposes of this Article, information means all files, applications, papers, documents, and records including those maintained in an electronic format, on microfilm or microfiche.

(b) Information considered confidential under this Article consists of:

(1) Child and spousal support enforcement records related to:

(A) Determination of paternity.

(B) Establishment, modification, and/or enforcement of child support and medical support orders.

(C) Establishment, modification, and/or enforcement of spousal support orders.

(2) Information related to abducted children or the location of the concealing, detaining, or abducting person.

(3) Information related to crimes against a child.

(c) All records and information obtained from other sources such as the Federal Parent Locator Service, Department of Motor Vehicles, Department of Justice and private financial institutions shall be safeguarded in accordance with the requirements set forth by those sources.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17212, Family Code; Section 11478.1, Welfare and Institutions Code; and 42 United States Code, Section 654 (26).

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of subsection (a), transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect amending NOTE filed 4–11–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 15).

§ 111440. Disclosure of Information.

(a) Disclosure of information specified in Section 111430 is authorized as follows:

(1) Information may be disclosed to public agencies for administrative, civil, or criminal investigations, actions, proceedings, or prosecutions directly related to the administration of the Title IV–D program, and other entities as permitted by state or federal law.

(2) Information may be disclosed to the local agency responsible for the administration of the Title IV–D program in another state.

(3) Information may be disclosed to the local agency responsible for the following programs funded under the federal Social Security Act:

(A) Title IV–A.

(B) Title IV–B.

(C) Title IV–E.

(4) A document requested by the person who wrote, prepared, or furnished the document may be disclosed to that person or his/her designee, if the designee has written authorization.

(5) A payment history of an obligor pursuant to a support order may be disclosed to the obligor, court, or person on whose behalf enforcement actions are being taken or to his/her designee, if that designee has written authorization.

(6) Income and expense information of either parent may be disclosed to the other parent or custodial party for the purpose of establishing or modifying a child support order.

(7) Medical insurance information for a child may be disclosed to the other parent or person having custody of the child for the purpose of establishing, modifying, or enforcing a medical support order.

(8) Any information required to be disclosed by a court order may be disclosed to the person designated in the court order.

(9) Public records subject to disclosure under the Public Records Act may be disclosed.

(10) Information may be disclosed to the courts for Title IV–D related activities.

(11) Information may be disclosed to a district attorney, law enforcement agency, state or county child protective agency, or for use in any judicial proceeding, to the extent permitted by federal and state law and regulation, for the following purposes:

(A) In aiding or assisting in the investigation or prosecution of cases involving child abduction.

(B) The prosecution of a crime against a child.

(C) For the protection of a child.

(12) Information may be disclosed to individuals who are authorized access to information from the Federal Parent Locator Service.

(b) Notwithstanding any other provision in these regulations, the disclosure of information on the whereabouts of one party or the child to the other party shall be prohibited in any of the following circumstances:

(1) The local child support agency has reason to believe that release of the information may result in physical or emotional harm to the party or the child; or

(2) A good cause claim, pursuant to Section 11477.04 or Section 14008.6, Welfare and Institutions Code, has been approved or is pending; or

(3) A protective order has been issued by a court or administrative agency.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 3752(c) and 17212, Family Code; and Sections 11477.04, 11478.1, and 14008.6, Welfare and Institutions Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of section and NOTE, transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 111450. Record Retention.

All closed Title IV–D case records shall be retained for four years and four months from the date of case closure, except case records that are the subject of any of the following, which shall be retained until the closure of:

(a) An open federal or State audit.

(b) A pending civil litigation, or a court order requiring such records be maintained for an extended period.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: 45 Code of Federal Regulations, Sections 302.15 and 303.11(d).

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 111460. Record Disposal.

(a) Each local child support agency shall ensure that the records maintained pursuant to Section 111420 are disposed of as specified below.

(b) Confidential records shall be destroyed in one of the following manners:

(1) Shredding.

(2) Recycling which results in destruction of the records.

(3) Burning.

(4) Erasure.

(5) Obliteration.

(6) Burial.

(7) Permanently deleting, erasing, and/or purging electronic, microfilm, and microfiche records from computers, hard–drives, floppy disks, magnetic media, and other software programs. Electronic documents that have been printed or reproduced into a hard copy shall be destroyed as specified in subparagraphs (1) through (6) above.

(c) Records destroyed as specified in subsection (b)(6), shall be obliterated in a manner that ensures the information contained in these records is indecipherable prior to burial.

(d) Records containing criminal history information not related to the parents failure to provide support, shall be destroyed as specified in subsection (b) within four years and four months of the date the case was closed.

(e) If the records specified in this Article are destroyed by a third party, a local child support agency shall include a confidentiality clause in the contract with the third party to ensure record confidentiality through destruction.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17531, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

Article 6. Customer Service

§ 111540. Ombudsperson Program — General Requirements.

Each local child support agency shall:

(a) Adopt and maintain an ombudsperson program, as described in this Article.

(b) Appoint a lead ombudsperson with the qualifications specified in Section 111541 who shall be responsible for the operations of the ombudsperson program.

(c) Provide sufficient staff to operate the ombudsperson program.

(d) Provide ombudsperson staff with access to local child support agency records to perform the duties and responsibilities of the ombudsperson program.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New article 6 (sections 111540–111543) and section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New article 6 (sections 111540–111543) and section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 111541. Lead Ombudsperson Qualifications.

The lead ombudsperson shall possess knowledge of:

(a) The principles of customer service.

(b) The child support program.

(c) The organizational structure, practices and procedures of the local child support agency.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 111542. Ombudsperson Responsibilities.

(a) The ombudsperson program shall provide, as appropriate, assistance to custodial parties, noncustodial parents, employers and the public:

(1) On inquiries about the child support program, local complaint resolution process and state hearings.

(2) On issues regarding actions taken by the local child support agency and/or Franchise Tax Board.

(3) By reviewing inquiries and issues and resolving them or making recommendations to resolve them prior to a complaint being filed.

(4) By assisting custodial parties and noncustodial parents in navigating the local complaint resolution and state hearing processes.

(5) By providing written, Department approved informational materials, related to the ombudsperson program, the local complaint resolution process, the state hearing process, and/or other child support related information.

(6) By referring customers to the Family Law Facilitator, or local legal aid office, as appropriate or upon request.

(b) The Ombudsperson shall be the liaison with the State Hearing Office to arrange for a hearing facility in the county.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of section, transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 111543. Data Collection and Information Reporting.

The ombudsperson program shall:

(a) Assess customer satisfaction with the local child support agency's actions regarding his/her inquiry, issue, dispute, or complaint with the local child support agency.

(b) Compile, maintain and report to the Department within 15 business days after the end of the calendar quarter the number and type of inquiries, issues, disputes and/or complaints received by the ombudsperson.

(c) Analyze the data required by subsection (b) and the complaint resolution information required by Section 120108, and identify and report systemic issues to the Department within 30 business days after the end of the calendar quarter.

(d) Compile and maintain other information required by the Department upon request.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of subsections (a) and (b), transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

Article 7. Staff Requirements

§ 111550. Bonding of Employees.

(a) Each local child support agency shall:

(1) Obtain a surety bond against losses resulting from employee dishonesty for every employee who receives, disburses, handles, or otherwise has access to any child support funds or support collections under the child support enforcement program required by Title IV–D of the Social Security Act.

(2) Ensure surety bonds are established in amounts sufficient to protect the local child support agency against loss from employee dishonesty.

(3) Ensure compliance with the bonding requirements specified in this Section by any other public or private agencies with which a plan of cooperation or purchase of service agreement is established involving any cash handling and/or accounting function.

(b) Bonding requirements may be satisfied by a county's self–bonding or self–insurance program, as permitted by local ordinance, code or local government resolution, if the self–bond or self–insurance is adequate to cover any loss of child support funds or support collections as a result of employee dishonesty.

(c) Any local child support agency that uses a self–bonding or self–insurance program to protect against loss, shall identify a county official to certify the following to the Department: "This county is self–bonded or self–insured for an amount adequate to cover any loss of child support funds or support collections as a result of employee dishonesty."

(d) Each local child support agency shall make available, upon the request of the Department, proof of bonding by providing:

(1) A copy of the bond that meets the requirement specified in subsection (a)(1) above; or

(2) The certification specified in subsection (b)(1) for self–bonded or self–insured counties.

(e) In no case shall any bonds or insurance acquired in compliance with this section reduce or limit the liability of the county or the local child support agency for losses of child support collections.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: 42 United States Code, Section 654(14)(A); and 45 Code of Federal Regulations, Section 302.19.

HISTORY

1. New article 7 (section 111550) and section filed 7–22–2002 as an emergency pursuant to Family Code section 17306(e); operative 7–22–2002 (Register 2002, No. 30). A Certificate of Compliance must be transmitted to OAL by 1–20–2003 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2002, No. 33).
3. Certificate of Compliance as to 7–22–2002 order, including amendment of subsections (b)–(c), transmitted to OAL 10–29–2002 and filed 12–9–2002 (Register 2002, No. 50).

§ 111560. Director Qualifications.

(a) Each local child support agency shall have a director who oversees the administration of the agency.

(b) The director shall be an employee of the county selected by the board of supervisors, or in the case of a city and county, selected by the mayor, or in the case of a regionalized agency, selected in accordance with the instrument, agreement, or other document governing the operation and organization of the regionalized agency.

(c) The director shall possess the equivalent to a bachelor's degree from an accredited college or university in business or public administration, psychology/sociology or related disciplines, or four years experience performing duties in a public agency of which two years were in a senior level administrative or management position.

(d) When considering a director appointment, the appointing authority as specified in subsection (b) shall also consider the following knowledge and abilities:

(1) Knowledge of government programs at the federal, state, or local level.

(2) Ability to direct and administer the local child support agency to assure its effective and efficient operation.

(3) Ability to work cooperatively with diverse interest groups, including advocacy groups, governmental organizations, and private entities.

(4) Knowledge of the applicable state and federal laws, rules and regulations relative to a child support program.

(5) Knowledge of applicable federal and state civil and criminal laws and regulations applicable to the delivery of child support services.

(6) Knowledge of the practices and procedures of the local courts relative to a child support program.

(7) Ability to carry out the county's personnel management program.

(8) Ability to direct and administer the county local child support agency activities to assure compliance with applicable state and federal laws, regulations and policies.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17304, Family Code.

HISTORY

1. New section filed 8–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 8–14–2002 (Register 2002, No. 33). A Certificate of Compliance must be transmitted to OAL by 2–10–2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8–14–2002 order transmitted to OAL 12–19–2002 and filed 2–3–2003 (Register 2003, No. 6).

Subchapter 2. Fiscal Administration (Reserved)

Subchapter 3. Administrative Reporting

Article 1. Administrative Reports

§ 111900. Administrative Reporting.

Each local child support agency shall submit data to the Department pursuant to this Article as required to meet federal and state reporting requirements.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17600, Family Code; 42 U.S.C., Section 669; and 45 Code of Federal Regulations, Section 302.15.

HISTORY

1. New subchapter 3, article 1 (sections 111900–111920) and section filed 9–6–2001 as an emergency pursuant to Family Code section 17306; operative 9–6–2001 (Register 2001, No. 36). A Certificate of Compliance must be transmitted to OAL by 3–5–2001 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2002, No. 10).
3. New subchapter 3, article 1 (sections 111900–111920) and section refiled 3–5–2002 as an emergency pursuant to Family Code section 17306; operative 3–5–2002 (Register 2002, No. 10). A Certificate of Compliance must be transmitted to OAL by 9–3–2002 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3–5–2002 order transmitted to OAL 8–29–2002 and filed 10–9–2002 (Register 2002, No. 41).

§ 111910. Collection/Distribution Reports.

(a) The local child support agency shall accurately complete all required child, family, medical, and spousal support collection and distribution reports and submit them to the Department on a monthly basis, by the due date required for each report. These reports shall include, but not be limited to, the following:

(1) "Child Support Services Monthly Report of Collections and Distributions," form CS 34, dated (01/02), incorporated by reference herein. The local child support agency shall submit this report no later than the 15th calendar day after the end of the reporting month.

(2) "Child Support Services Assistance Related Distribution/Disbursement Summary," form CS 35, dated (01/02), incorporated by reference herein. The local child support agency shall submit this report no later than the 15th calendar day after the end of the reporting month.

(3) "Summary Report of Health Insurance Identified — Non–AFDC" form CS 810, dated (1/00), incorporated by reference herein. The local child support agency shall submit this report no later than the 15th business day after the end of the report month. The local child support agency is not required to submit this report if no health insurance activity has occurred during the report month.

(b) If the local child support agency fails to meet the reporting deadlines or to accurately report the required data, the Department shall send written notification to the director of the local child support agency of the missed reporting deadline or the inaccurate report, and require the report to be filed and/or accurately completed within 15 days. If the report has still not been received 15 calendar days after the deadline set forth above or if a report is not received timely for a subsequent reporting period, a written notification by the Department to the County Executive Officer/ County Administrative Officer shall be sent. If the report has still not been received 30 calendar days after the deadline set forth above or if a report is not received timely on a third occasion, notification by the Department to the County Board of Supervisors and the State Legislature shall be sent. The local child support agency will also be sent copies of each notice.

(c) If the local child support agency fails to meet the reporting deadline or fails to provide accurate data, the Department may use the data reported by that local child support agency from prior reporting periods as applicable, noted as such, in any Department reports.

(d) The local child support agency shall submit all reports required by this section with a signature, under penalty of perjury, of the local child support agency director. The Department shall not disburse federal and state funds to the local child support agency if the report is not filed, or is filed without the required signature.

(e) The local child support agency shall remit a copy of the monthly CS 35 report and payment for Federal and State shares of recoupment identified on the monthly CS 35 to the Department by the 15th calendar day following the reporting month. If the local child support agency fails to remit the state and federal share of the collections within the required timeframe, the Department shall send written notification to the director of the local child support agency, requiring remittance of the payment within 15 business days. In the event that the local child support agency does not remit the payment within 15 business days, the Department shall offset the next child support payment to the county.

(f) The local child support agency shall complete all required case level detail reports requested for audit purposes and provide each report as requested by the Department, federal and/or state auditor and child support program reviewers.

(g) The local child support agency shall, consistent with Sections 111430 and 111440, retain copies of all signed collection and distribution reports for four years and four months, provided there are not any outstanding issues in litigation, claims, financial management reviews or audits. If any issue is pending, the local child support agency shall retain the reports, relating to those issues, in any litigation, claim, financial management review, or audit involving the reports until the issue is resolved and final action has been completed.

NOTE: Authority cited: Sections 17306, 17310, 17312 and 17704, Family Code. Reference: Section 17600, Family Code; 42 U.S.C., Section 669; and 45 Code of Federal Regulations, Section 302.15.

HISTORY

1. New section filed 9–6–2001 as an emergency pursuant to Family Code section 17306; operative 9–6–2001 (Register 2001, No. 36). A Certificate of Compliance must be transmitted to OAL by 3–5–2001 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2002, No. 10).
3. New section refiled 3–5–2002 as an emergency pursuant to Family Code section 17306; operative 3–5–2002 (Register 2002, No. 10). A Certificate of Compliance must be transmitted to OAL by 9–3–2002 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3–5–2002 order, including amendment of section, transmitted to OAL 8–29–2002 and filed 10–9–2002 (Register 2002, No. 41).

§ 111920. Activity and Statistical Reports.

(a) The local child support agency shall accurately complete all required activity and statistical reports required by the Department on a quarterly, state fiscal year, and federal fiscal year basis, as applicable. These reports shall include, but not be limited to, the following:

(1) "Child Support Services Quarterly State Performance Report" form CS 457 QTR, dated (1/02), incorporated by reference herein.

(2) "Child Support Services Federal Fiscal Year Annual Data & Accounts Receivable Report" form CS 157 FFY, dated (10/00), incorporated by reference herein.

(b) The local child support agency shall submit the reports to the Department, no later than 15 calendar days after the end of the reporting quarter, state and/or federal fiscal year, as applicable. If such day is not a business day the report shall be submitted the next business day.

(c) If the local child support agency fails to meet the reporting deadlines or to accurately report the required data, the Department shall send written notification to the director of the local child support agency, of the missed reporting deadline or the inaccurate report, and require the report to be filed and/or accurately completed within 15 days. If the report has still not been received 15 calendar days after the deadline set forth above or if a report is not received timely for a subsequent reporting period, a written notification by the Department to the County Executive Officer/County Administrative Officer shall be sent. If the report has still not been received 30 calendar days after the deadline set forth above or if a report is not received timely on a third occasion, notification by the Department to the County Board of Supervisors and the State Legislature

shall be sent. The local child support agency will also be sent copies of each notice.

(d) If the local child support agency fails to meet the reporting deadline and/or fails to provide the requested data, the Department may use the data reported by that local child support agency from prior reporting periods, noted as such, in any Department reports.

(e) The local child support agency shall submit electronically all reports required by this section with a signature, under penalty of perjury, of the local child support agency director or its equivalent using the directors' electronic approval code. The Department shall not disburse federal and state funds if the report is not filed, or filed without the required signature.

(f) The local child support agency shall not be eligible to receive state incentive funds as specified in Section 17704 of the Family Code, if the local child support agency fails to report as required by Section 17600 of the Family Code.

(g) The local child support agency shall complete all required case level detail reports requested for audit purposes and provide each report as requested by the Department, federal and/or state auditor and child support program reviewers.

(h) The local child support agency shall, consistent with Sections 111430 and 111440, retain copies of all activity and statistical reports for four years and four months, provided there are not any outstanding issues in litigation, claims, financial management reviews or audits. If any issue is pending, the local child support agency shall retain the reports, relating to those issues, in any litigation, claim, financial management review, or audit involving the reports until the issue is resolved and final action has been completed.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17600, Family Code; 42 U.S.C., Sections 655(d) and 669; and 45 Code of Federal Regulations, Section 302.15.

HISTORY

1. New section filed 9–6–2001 as an emergency pursuant to Family Code section 17306; operative 9–6–2001 (Register 2001, No. 36). A Certificate of Compliance must be transmitted to OAL by 3–5–2001 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2002, No. 10).
3. New section refiled 3–5–2002 as an emergency pursuant to Family Code section 17306; operative 3–5–2002 (Register 2002, No. 10). A Certificate of Compliance must be transmitted to OAL by 9–3–2002 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3–5–2002 order, including amendment of section, transmitted to OAL 8–29–2002 and filed 10–9–2002 (Register 2002, No. 41).

Chapter 2. Case Intake

Article 1. Definitions

§ 112002. Abuse.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New chapter 2 (articles 1–6), article 1 (sections 112002–112035) and section filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
2. New chapter 2 (articles 1–6), article 1 (sections 112002–112035) and section refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2–14–2002 order transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).
5. Change without regulatory effect renumbering former section 112002 to new section 110004 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 112015. Child Abuse.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2–14–2002 order transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).
5. Change without regulatory effect renumbering former section 112015 to new section 110140 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 112025. Domestic Violence.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2–14–2002 order transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).
5. Change without regulatory effect renumbering former section 112025 to new section 110292 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 112034. Family Violence.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2–14–2002 order transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).
5. Change without regulatory effect renumbering former section 112034 to new section 110339 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 112035. Family Violence Indicator.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: 42 United States Code, Section 663.

HISTORY

1. New section filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2–14–2002 order transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).
5. Change without regulatory effect renumbering former section 112035 to new section 110343 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

Article 2. Application and Referral

§ 112100. General Requirements.

Each local child support agency shall:

(a) Make the application package for child support services, specified in Section 112110, available to the public and provide the application package on the day it is requested in person, or within five business days of a telephone or written request.

(b) Accept an application for child support services on the day the application is received from an applicant who is not currently receiving public assistance including an applicant:

(1) Reapplying for services after his/her case was closed pursuant to case closure criteria specified in 45 Code of Federal Regulations, Section 303.11.

(2) Applying for services to collect spousal support, if both of the following conditions exist:

(A) The obligee is living with the children for whom the spousal support obligor also owes child support.

(B) The child support order is being enforced under the Title IV-D program.

(c) Not require an application package from:

(1) A current public assistance recipient that is referred from the county welfare department.

(2) A former public assistance recipient who became ineligible to receive assistance after being referred by the county welfare department, but still wishes to have child support services continue.

(3) When a California local child support agency is the responding state in a interstate case.

(d) Provide written notification to an applicant within five business days from receipt of an application, if the application is deficient in any one of the data elements specified in Section 112130(a)(2), identifying the deficiencies.

(e) Accept all referrals of CalWORKs, Foster Care, and Medically Needy Only recipients from the county welfare department on the day they are received and provide to the recipient the information notice specified in Section 112110(i) within five business days of the referral. The referral process for CalWORKs and Medically Needy Only recipients shall include making local child support agency staff available to interview each recipient, in person or by telephone, at the time of the initial interview in each county welfare department. During the interview with the recipient, the local child support agency shall obtain all information necessary to complete:

(1) The the "Referral to Local Child Support Agency" form CW 371, as required by the California Department of Social Services (CDSS), Manual of Policies and Procedures (MPP) Section 80-310(c)(11).

(2) The the "Support Questionnaire" form CA 2.1Q, as required by CDSS, MPP Section 80-310(c)(2).

(3) The "Attestation Statement," form CS 870, dated (01/02), incorporated by reference herein, if applicable.

(f) During the initial interview specified in subsection (e), a local child support agency shall also obtain all information necessary to complete the form specified in Section 112110(h), and offer to the recipient information on the availability of services designed to assist individuals to identify, escape, or stop future domestic abuse, as well as to deal with the effects of domestic abuse.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17406 and 17415, Family Code; Section 11477, Welfare and Institutions Code; and 45 Code of Federal Regulations, Sections 302.31, 302.33 and 303.2.

HISTORY

1. New article 2 (sections 112100-112110) and section filed 9-10-2001 as an emergency pursuant to Family Code section 17306; operative 9-10-2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3-11-2002 or emergency language will be repealed by operation of law on the following day.
2. New article 2 (sections 112100-112110) and section refiled 2-14-2002 as an emergency pursuant to Family Code section 17306(e); operative 2-14-2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8-20-2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2-14-2002 order, including amendment of section and NOTE, transmitted to OAL 7-3-2002 and filed 8-15-2002 (Register 2002, No. 33).

§ 112110. Application Package for Child Support Services.

The application package required by Section 112100 shall include each of the following which are incorporated by reference herein:

(a) "Application for Support Services," CSS 2101, dated (01/02).

(b) "Information Regarding the Application for Support Services Package," CSS 2103, dated (09/01/01).

(c) "Child Care Verification," CSS 2105, dated (09/01/01).

(d) "Visitation Verification," CSS 2107, dated (09/01/01).

(e) "Declaration of Support Payment History," CSS 2109, dated (09/01/01).

(f) "Health Insurance Information," CSS 2111, dated (09/01/01).

(g) "Request for Support Services," CSS 2115, dated (02/02).

(h) "Child Support Domestic Violence Questionnaire," CSS 2142, dated (01/02).

(i) "Child Support Services Program Notice," CS 196, dated (01/02).

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17406, Family Code; and 45 Code of Federal Regulations, Sections 302.33 and 303.2.

HISTORY

1. New section filed 9-10-2001 as an emergency pursuant to Family Code section 17306; operative 9-10-2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3-11-2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2-14-2002 as an emergency pursuant to Family Code section 17306(e); operative 2-14-2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8-20-2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2-14-2002 order, including amendment of section, transmitted to OAL 7-3-2002 and filed 8-15-2002 (Register 2002, No. 33).

Article 3. Case Opening Requirements

§ 112130. Establishing the Case Record.

Each local child support agency shall:

(a) Open a case by establishing a case record within 20 days of receipt of either:

(1) A referral of a CalWORKs, Foster Care or Medically Needy Only recipient from the county welfare department.

(2) The application for services form, CSS 2101, if the minimum data elements necessary to open a case are provided. The minimum data elements shall include the name of an applicant and child(ren) and the signature of the applicant on the application.

(b) Reopen a closed case upon receipt of an application for services or a referral from the county welfare department within the time frame specified in subsection (a), regardless of previous unsuccessful locate attempts.

(c) Assess the case to determine necessary action(s) by considering:

(1) The case type.

(2) Whether the case already exists.

(3) Whether paternity is at issue.

(4) Whether the custodial or noncustodial parent's physical location is known.

(5) Whether a child, medical or spousal support order already exists for the children or spouse for whom services are being requested.

(d) Ensure the case record established pursuant to subsection (a) contains both of the following:

(1) All information and documents pertaining to the case including the information contained on the forms specified in Section 112110.

(2) All facts and dates relevant to the case, including a record of:

(A) All actions taken, the reason and results of each action, and the name of the person taking the action.

(B) Each contact made, the date(s) of contact, and the names of all persons contacted.

(e) Solicit any additional information and initiate verification of information obtained, as necessary, to provide locate, establishment or enforcement services.

(f) Open one case naming the most likely alleged father when paternity is at issue and if that alleged father is excluded, change the case record to reflect the next most likely alleged father. The local child support agency shall repeat this action for each alleged father until the father has been identified or all alleged fathers have been excluded.

(g) Provide written notification to a CalWORKs and Medically Needy Only recipient, unless the recipient is a nonparent caretaker or other relative of the child(ren), of the requirement to cooperate in all required activities necessary to establish paternity and/or establish, modify, or enforce a support order, as specified in Section 112200, as a condition of continued eligibility for CalWORKs or Medi–Cal unless:

(1) Only the children are receiving CalWORKs or Medi–Cal benefits, or

(2) A good cause claim is pending or has been approved by the county welfare department, as specified in Sections 14008.6, or 11477.04, Welfare and Institutions Code, as applicable.

(h) Mail written notification to the noncustodial parent, if his/her address is known, informing the noncustodial parent of the case opening. This notification shall include all of the following:

(1) Any available identifying numbers such as, a court case number or a local child support agency case number.

(2) Information regarding child support services including the noncustodial parent's rights and responsibilities.

(3) An income package containing a cover letter requesting financial information and either a "Financial Statement (Simplified)," as required by the Rules of Court 1285.52, or a Income and Expense Declaration, as required by the Rules of Court 1285.50.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: 45 Code of Federal Regulations, Sections 302.33 and 303.2.

HISTORY

1. New article 3 (section 112130) and section filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
2. New article 3 (section 112130) and section refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2–14–2002 order, including amendment of subsections (a)(2), (g) and (g)(2), transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).

Article 4. Case Processing

§ 112140. Interviewing a Custodial Party/Noncustodial Parent.

Each local child support agency shall:

(a) Conduct an initial interview with a custodial party, unless the custodial party is a foster care agency, or a noncustodial parent if that individual is the applicant for Title IV–D services, within 10 business days of opening a case, unless an interview was conducted pursuant to Section 112100(e). During the initial interview the local child support agency shall:

(1) Answer questions and provide information to the custodial party or noncustodial parent of his/her rights and responsibilities.

(2) Review the forms specified in Section 112110 completed by the custodial party and/or noncustodial parent and solicit additional information as necessary.

(b) Reinterview the custodial party or noncustodial parent to obtain information, when necessary.

(c) Notwithstanding subsections (a) and (b), interview or reinterview a noncustodial parent only if the noncustodial parent is not represented by an attorney or his/her attorney has given a local child support agency permission to conduct an interview.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17400 and 17405, Family Code; and 45 Code of Federal Regulations 303.2.

HISTORY

1. New article 4 (sections 112140–112155) and section filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
2. New article 4 (sections 112140–112155) and section refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2–14–2002 order, including amendment of subsection (a), transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).

§ 112150. Case Processing—CalWORKs Referrals.

(a) Upon receipt of a CalWORKs referral, each local child support agency shall seek to establish paternity, if necessary, and to obtain either or both of the orders specified in (1) and (2), below:

(1) An order for current support which shall comply with the statewide uniform guideline specified in Article 2, of Part 2, of Division 9, of the Family Code, if either of the conditions specified below exist:

(A) An order for support of all the minor child(ren) subject to the CalWORKs grant does not already exist and the family continues to receive CalWORKs.

(B) Following the receipt of a CalWORKs referral a custodial party ceases to receive public assistance under the CalWORKs program, but continues to receive Title IV–D services.

(2) An order for reimbursement of the costs of any public assistance under the CalWORKs program provided during the period of the noncustodial parent's absence, unless an order has already been established. A reimbursement order sought by a local child support agency shall comply with the statewide uniform guideline specified in Article 2, of Part 2, of Division 9, of the Family Code and shall be reduced by a local child support agency of a county in which a CalWORKs recipient is receiving CalWORKs by any amount actually paid by a noncustodial parent to a custodial party or to a local child support agency during the period of separation or desertion for the support and maintenance of the family. Such orders shall be subject to the following:

(A) For cases filed on or after January 1, 2000, the order for the support and maintenance of the family shall not exceed one year prior to the date of the filing of the petition or complaint.

(B) For cases filed prior to January 1, 2000, the order for the support and maintenance of the family shall not exceed three years prior to the date of the filing of the petition or complaint.

(b) Each local child support agency shall enforce any existing valid support order(s) established for the family and/or child(ren) subject to a CalWORKs grant.

(c) When a CalWORKs recipient is no longer eligible for assistance under the CalWORKs program, a local child support agency shall continue to:

(1) Provide Title IV–D services and notify the former CalWORKs recipient, in writing, within five business days of receipt of the county welfare department's notification of ineligibility, that Title IV–D services shall be continued unless the local child support agency is notified in writing by the former CalWORKs recipient that services should be discontinued. The notice shall inform the former CalWORKs recipient of his/her rights and responsibilities of continuing to receive Title IV–D services, including available services and distribution policies.

(2) Collect any assigned arrearages that have accrued.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17400, 17415 and 17402, Family Code; Section 11477, Welfare

and Institutions Code; and 45 Code of Federal Regulations, Sections 302.33, 302.50, 303.4 and 303.6.

HISTORY

1. New section filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2–14–2002 order, including amendment of section and NOTE, transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).

§ 112152. Case Processing–Medically Needy Only Referrals.

Each local child support agency shall:

(a) Provide all Title IV–D services to a Medically Needy Only recipient unless he/she notifies the local child support agency that only services related to medical support are wanted.

(b) Establish paternity when appropriate.

(c) Seek to obtain an order for a noncustodial parent to provide medical support for his/her child(ren) receiving benefits under the Medi–Cal program.

(d) Enforce any existing valid medical support order for health insurance established for the child(ren) receiving benefits under the Medi–Cal program.

(e) Forward payments from a noncustodial parent for medical support to the Department of Health Services, if a local child support agency is enforcing a medical support order specifying a dollar amount for medical support.

(f) Provide written notification to the county welfare department and to the Department of Health Services, Third Party Liability Branch, within five days of discovering that a Medically Needy Only recipient received a medical support payment directly from a noncustodial parent, if the local child support agency is enforcing a medical support order specifying a dollar amount for medical purposes.

(g) When a Medically Needy Only recipient is no longer eligible for assistance under the Medi–Cal program, a local child support agency shall continue to provide Title IV–D services, and notify the Medically Needy Only recipient in writing within five business days of receipt of the county welfare department's notification of ineligibility, that Title IV–D services shall be continued unless the local child support agency is notified in writing by the Medically Needy Only recipient that services should be discontinued. The notice shall inform the Medically Needy Only recipient of his/her rights and responsibilities of continuing to receive Title IV–D service, including available services and distribution policies.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17400 and 17415, Family Code; Section 14008.6, Welfare and Institutions Code; and 45 Code of Federal Regulations, Sections 302.31, 302.33, 302.51 and 303.31.

HISTORY

1. New section filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2–14–2002 order, including amendment of section and NOTE, transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).

§ 112154. Case Processing–Foster Care Referrals.

Each local child support agency shall:

(a) Obtain the orders specified in Section 112150(a), as applicable.

(b) Enforce any existing valid support order(s) established for the family and/or child(ren) subject to foster care assistance.

(c) Continue to provide Title IV–D services as specified in Section 112150(c).

(d) Petition the Superior Court to issue an order to show cause, as specified in Section 903.4(c)(1), Welfare and Institutions Code, why an order should not be entered for continuing support and reimbursement.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17400 and 17402, Family Code; Section 11477, Welfare and Institutions Code; 42 United States Code; Section 654; and 45 Code of Federal Regulations, Sections 302.33, 302.50, 303.4 and 303.6.

HISTORY

1. New section filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2–14–2002 order, including amendment of subsection (b) and NOTE, transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).

§ 112155. Case Processing–Non Public Assistance Cases.

(a) A local child support agency shall seek to establish paternity, if necessary, and to obtain an order for current support which shall comply with the statewide uniform guideline specified in Article 2, of Chapter 2, of Part 2, of Division 9, of the Family Code (commencing with Section 4050), and an order for medical support, unless such orders for support of all the minor children already exist.

(b) A local child support agency shall enforce any existing valid support order(s) and/or medical support orders established for the family and/or child(ren) as specified in Division 9 of the Family Code (commencing with Section 3500); Division 17 of the Family Code (commencing with Section 17000); and Title 6.5 of Part 2 of the Code of Civil Procedure (commencing with Section 481.010), Title 9 of Part 2 of the Code of Civil Procedure (commencing with Section 680.010); Title 13 of Part 2 of the Code of Civil Procedure (commencing with Section 901); and Title 5 of Part 3 of the Code of Civil Procedure (commencing with Section 1209).

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17400, Family Code; and 45 Code of Federal Regulations, Sections 302.33, 303.4 and 303.6.

HISTORY

1. New section filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2–14–2002 order, including amendment of subsection (a) and NOTE, transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).

Article 5. Cooperation

§ 112200. Determining Cooperation.

Each local child support agency shall:

(a) Determine cooperation throughout case processing from a a CalWORKs or Medically Needy Only applicant or recipient who is receiving Title IV–D services. For the purposes of this Article the following definitions shall apply:

(1) "Applicant or recipient" means a custodial party who is the parent of a child(ren) and who has assigned to a county any rights to support.

(2) "Cooperation" means assistance by an applicant or recipient in all required activities necessary to establish paternity, or to establish, modify or enforce a medical or child support order, unless a finding of good cause has been made as specified in Section 112210.

(b) The activities necessary for cooperation shall include all of the following:

(1) Providing the name of the alleged father or noncustodial parent, as well as other information, if known, such as the alleged father's or noncustodial parent's address, Social Security Number, telephone number, place of employment or school, and the names and addresses of relatives.

(2) Providing the information necessary to complete the "Support Questionnaire," form CA 2.1 Q, for each alleged father or noncustodial parent, as required by CDSS, MPP Section 80–310(c)(2).

(3) Appearing at interviews, hearings, and legal proceedings provided the applicant or recipient is provided with forty eight hours advance notice of the interview, hearing, or legal proceeding, unless otherwise governed by the court, and does not have good cause not to appear. The following shall be considered good cause for not appearing:

(A) Death in the immediate family.

(B) Personal illness or injury to the applicant or recipient or authorized representative.

(C) Sudden and unexpected emergencies including but not limited to traffic accidents on the day of the interview, hearing, or legal proceeding and illness or injury of a household or family member who requires immediate care.

(4) Submitting to genetic tests if paternity is at issue.

(5) Providing any additional information about the alleged father or noncustodial parent that is obtainable by the applicant or recipient.

(c) Not require the applicant or recipient to sign a voluntary declaration of paternity, as specified in Sections 7570 through 7577, Family Code, as a condition of cooperation.

(d) Make a finding regarding whether the applicant or recipient could reasonably be expected to assist in all required activities specified in subsection (b), if the applicant or recipient attests under penalty of perjury that he/she cannot provide such assistance. In making the finding, a local child support agency shall consider all of the following:

(1) The age of the child(ren) for whom support is sought.

(2) The circumstances surrounding the conception of the child.

(3) The age or mental capacity of the applicant or recipient.

(4) The time that has elapsed since the applicant or recipient last had contact with the alleged father or noncustodial parent.

(e) Not make a finding of noncooperation for a CalWORKs or Medically Needy Only applicant or recipient before he/she is given the opportunity to attest, under penalty of perjury, that he/she has no further information about the noncustodial parent and the information already provided is complete and accurate to the best of his/her knowledge and belief.

(f) Prepare and transmit the "Referral To Local Child Support Agency," form CW 371, to the county welfare department as notice that the applicant or recipient has failed to cooperate. If the applicant or recipient subsequently cooperates, the local child support agency shall prepare and transmit form CW 371 to notify the county welfare department of that fact.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 11477 and 14008.6, Welfare and Institutions Code; and 45 Code of Federal Regulations, Section 264.30.

HISTORY

1. New article 5 (sections 112200–112210) and section filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
2. New article 5 (sections 112200–112210) and section refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2–14–2002 order, including amendment of section and NOTE, transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).

§ 112210. Good Cause.

(a) The local child support agency shall suspend Title IV–D services if, the custodial party requests a good cause review by the county welfare department. Services shall remain suspended until the custodial party requests the resumption of services, or the county welfare department declines to find good cause.

(b) A local child support agency shall suspend Title IV–D services after the agency is notified by the county welfare department via the "Child Support–Good Cause For Noncooperation," form CW 51, as required by CDSS, of a finding of good cause, as specified in. Sections 11477.04 and 14008.6 Welfare and Institutions Code.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 11477.02 and 14008.6, Welfare and Institutions Code; and 45 Code of Federal Regulations, Section 302.31.

HISTORY

1. New section filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2–14–2002 order, including amendment of section, transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).

Article 6. Family Violence

§ 112300. Screening for Family Violence.

(a) Each local child support agency shall screen all custodial parties and noncustodial parents for family violence, as specified below:

(1) For all new cases, except interstate responding cases, screening shall occur either:

(A) During the initial interview, specified in Sections 112100(e) and 112140; or

(B) If the addresses of either a custodial party or noncustodial parent are unknown, within five business days of receiving locate information about a custodial party or a noncustodial parent.

(2) For all existing, cases screening shall occur either:

(A) Within 60 days of transitioning to an interim child support computer system; or

(B) Within five days of first locating a custodial party or a noncustodial parent.

(b) Except as specified in subsection(a)(1)(A), above, screening shall consist of:

(1) Mailing to a custodial party and a noncustodial parent a domestic violence cover letter #1, "DVCVR #1", CSS 2140, dated (09/01/01), incorporated by reference herein, and a "Child Support Domestic Violence Questionnaire," form CSS 2142. If a child is in foster care, the forms shall be mailed to both noncustodial parents.

(2) Requiring completion and submission of form 2142 to a local child support agency within 30 days of the date the form was mailed, if a custodial party or noncustodial parent believe that the release of identifying information about him/her to the federal government could result in physical or emotional harm to the party/parent(s), or to the children of the party/parent(s).

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: 42, United States Code, Section 602(a)(7); and 45 Code of Federal Regulations, Section 260.52.

HISTORY

1. New article 6 (sections 112300–112302) and section filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
2. New article 6 (sections 112300–112302) and section refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL

by 8–20–2002 or emergency language will be repealed by operation of law on the following day.

3. Editorial correction of HISTORY 2 (Register 2002, No. 33).

4. Certificate of Compliance as to 2–14–2002 order, including amendment of subsection (b)(1) and NOTE, transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).

§ 112301. Determining Family Violence.

(a) Each local child support agency shall determine whether there is, or has been, family violence based upon the information on form 2142 provided by a custodial party or a noncustodial parent. When determining family violence, a local child support agency shall consider the following related to the incident(s) of domestic violence and/or child abuse:

(1) The date(s), time(s) and place(s) of each incident(s).

(2) The names of persons who witnessed the incident(s).

(3) Police, government agency or court records or files.

(4) Documentation from a domestic abuse program.

(5) Documentation from legal, clerical, medical, or other professionals from whom the custodial party or noncustodial parent sought assistance in dealing with domestic abuse or child abuse.

(6) Physical evidence of abuse.

(7) A statement from another individual with knowledge of the circumstances that provide the basis for the claim of abuse.

(8) Protective orders issued.

(9) Any other evidence that supports the incident(s) of domestic violence or child abuse.

(b) If form 2142 is returned with the first box in Section III marked indicating the party is requesting nondisclosure of identifying information, but no detailed family violence information is provided in Section II of the form, a local child support shall mail both of the following to the party that submitted the incomplete form 2142:

(1) A new blank form 2142.

(2) A domestic violence cover letter #2, "DVCVR #2," CSS 2144, dated (09/01/01), incorporated by reference herein. Form 2144 shall notify the party that the form 2142 initially submitted did not contain sufficient detail to stop release of information to the federal government and request completion and submission of a new form 2142 to the local child support agency within 30 days from the date of the letter.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: 42, United States Code, Section 602(a)(7); and 45 Code of Federal Regulations, Section 260.52.

[The next page is 1472.10(c).]

HISTORY

1. New section filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2–14–2002 order, including amendment of subsection (b)(2) and NOTE, transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).

§ 112302. Activating a Family Violence Indicator.

(a) A family violence indicator shall be activated by a local child support agency for a custodial party or noncustodial parent and his/her child(ren) that are part of the same case as the parent against whom the custodial party or noncustodial parent is claiming family violence, if a local child support agency has received a completed form 2142 from either the custodial party or noncustodial parent and one of the following applies:

(1) A request for good cause has been granted, as specified in Section 11477.04, Welfare and Institutions Code.

(2) A party to the child support case, or custodial party's or noncustodial parent's child(ren), has/have obtained a protective order.

(3) A party to the child support case, or custodial party's or noncustodial parent's child(ren), has/have indicated there is an increased risk of harm to self or to the child(ren), if information is released.

(4) A local child support agency has reason to believe that the disclosure of information may result in physical or emotional harm to any of the individuals specified in subparagraphs (1) through (3), above.

(b) A local child support agency shall record in its automated system its determination of the existence of family violence within five business days of receipt of a completed form 2142.

(c) Within 30 days of the date a local child support agency records its determination of the existence of family violence in its automated system, or 30 days of the date by which a custodial party or noncustodial parent(s) should have returned the completed form 2142, but did not, a local child support agency shall submit child support case information, including whether a family violence indicator has been activated, to the Department for subsequent submission to the Federal Case Registry

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: 42, United States Code, Section 602(a)(7); and 45 Code of Federal Regulations, Section 260.52.

HISTORY

1. New section filed 9–10–2001 as an emergency pursuant to Family Code section 17306; operative 9–10–2001 (Register 2001, No. 37). A Certificate of Compliance must be transmitted to OAL by 3–11–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2–14–2002 as an emergency pursuant to Family Code section 17306(e); operative 2–14–2002 (Register 2002, No. 8). A Certificate of Compliance must be transmitted to OAL by 8–20–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 33).
4. Certificate of Compliance as to 2–14–2002 order, including amendment NOTE, transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).

Chapter 3. Locate

Article 1. Locate Requirements

§ 113100. Local Child Support Agency Responsibilities.

(a) Each local child support agency shall:

(1) Use all appropriate locate sources when the noncustodial parent's location is unknown. Appropriate locate sources include, but are not limited to:

(A) California Parent Locator Service (CPLS) as the primary clearing house for accessing numerous data bases.

(B) United States Postal Service.

(C) Local telephone company.

(D) Federal Parent Locator Service including the National Directory of New Hires and Federal Case Registry.

(E) State agencies maintaining records of public assistance, wages and employment, unemployment insurance, income taxes, driver's licenses and vehicle registration, vital records and criminal records such as:

1. Employment Development Department, including the State New Hire Registry.
2. Secretary of State.
3. Board of Equalization.
4. Department of Consumer Affairs.
5. Department of Motor Vehicles.
6. Franchise Tax Board.
7. Department of Health Services.

(F) Local agencies which administer public assistance, general assistance, medical assistance, and social services programs.

(G) Financial institutions.

(H) Current and past employers of the noncustodial parent.

(I) Unions.

(J) Fraternal organizations.

(K) Police, parole, and probation offices.

(L) Other sources such as:

1. Interstate location networks, such as other state parent locator services, including quick locate requests.
2. Multi–state financial institution data match.
3. Public utilities.
4. Providers of electronic digital pager communication.
5. Providers of cellular telephone services.
6. Credit reporting agencies.
7. Internet.
8. Voter registration.
9. Friends and relatives of the noncustodial parent.
10. Private locate sources when appropriate.

(2) Use appropriate locate sources when a custodial party's address is unknown and the local child support agency has a child support collection to distribute as specified in subsection (h), or the local child support agency needs to contact the custodial party regarding his/her child support case.

(b) Within no more than 75 calendar days of determining that a noncustodial parent needs to be located, a local child support agency shall:

(1) Access all appropriate locate sources, unless information sufficient to take the next locate, establishment, or enforcement action in a case is otherwise obtained within the 75–calendar–day time frame.

(2) Ensure that location information received is sufficient to take the next locate, establishment or enforcement action, or initiate service of process.

(c) For cases in which location attempts required by subsection (b) were unsuccessful, the local child support agency shall:

(1) When new information which may aid with location is received, immediately initiate location by accessing all appropriate locate sources as specified in subsection (a)(1).

(2) When new information has not been received, repeat location attempts quarterly. Quarterly locate attempts may be limited to accessing automated locate sources when the noncustodial parent's name, date of birth, or social security number are known. Referral to an automated locate source shall include accessing both of the following locate sources:

(A) Employment Development Department.

(B) The California Parent Locator Service.

(3) Not submit locate cases to the Federal Parent Locator Service for quarterly locate activity if the cases were previously submitted to the Federal Case Registry.

(d) The local child support agency shall not be required to take independent action to access locate sources already accessed by CPLS.

(e) If an automated locate source updates its database less frequently than on a quarterly basis, the local child support agency shall refer cases

to that source in accordance with how often that source updates its database, rather than every quarter.

(f) If a local child support agency determines that a specific source of locate information is needed in a case, such as when only the noncustodial parent's earnings or assets need to be located, the local child support agency may refer those cases only to locate sources which provide that type of information.

(g) A local child support agency shall use the quick locate method for locating or confirming the location of a noncustodial parent in another state by completing the federal form "Locate Data Sheet, OMB No. 0970–0085," or the CPLS Form CR–60, as required by the California Department of Justice, and submitting it manually or electronically to the California Parent Locator Service for referral to the parent locator service in the state(s) in which the noncustodial parent is believed to be located.

(1) The quick locate method is appropriate for use in the following situations:

(A) When a local child support agency determines that a noncustodial parent might be in one of several states.

(B) When a local child support agency intends to use this state's long arm jurisdiction to establish paternity or a support order, or to enforce an order and wants to use the quick locate method to confirm the noncustodial parent's location.

(2) When the quick locate method is used, the time frames specified in subsection (b) shall apply.

(h) Within 5 business days of determining that contact with a custodial party has been lost and that custodial party must be located because the local child support agency has a child support collection to distribute to that custodial party, the local child support agency shall attempt to locate that custodial party for 6 months using the locate resources specified in subsection (a)(1).

(1) Contact with a custodial party shall be determined lost when all attempts by a local child support agency to telephone and correspond with a custodial party utilizing all known telephone numbers and addresses, including e–mail have failed. In addition to the locate resources specified in subsection (a)(1), the local child support agency shall attempt to locate the custodial party by contacting employers, relatives and friends of the custodial party, if known.

(2) When a custodial party cannot be contacted after 6 months of locate attempts, a local child support agency shall return the undeliverable payment(s) to the noncustodial parent with written notification advising the noncustodial parent that the return of the support does not relieve the noncustodial parent of the support order, and the noncustodial parent should consider placing the funds aside for purposes of child support in case the custodial party appears and seeks collection of the undistributed payments.

(i) Each local child support agency shall ensure the requirements of Article 5, Chapter 1, are met with respect to the safeguarding and disclosure of confidential information obtained through locate efforts.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17212, 17502, 17505, 17506, 17508, 17512 and 17514, Family Code; Section 11478.1, Welfare and Institutions Code; and 45 Code of Federal Regulations, Sections 302.35, 303.3, 303.7, 303.15, 303.69 and 303.70.

HISTORY

1. New chapter 3 (articles 1–2), article 1 (section 113100) and section filed 9–4–2001 as an emergency pursuant to Family Code section 17306; operative 9–4–2001 (Register 2001, No. 36). A Certificate of Compliance must be transmitted to OAL by 3–4–2002 or emergency language will be repealed by operation of law on the following day.
2. New chapter 3 (articles 1–2), article 1 (section 113100) and section refiled 2–11–2002 as an emergency pursuant to Family Code section 17306; operative 3–6–2002 (Register 2002, No. 7). A Certificate of Compliance must be transmitted to OAL by 9–3–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 27).
4. Certificate of Compliance as to 2–11–2002 order, including amendment of section and NOTE, transmitted to OAL 9–3–2002 and filed 9–30–2002 (Register 2002, No. 40).

Article 2. Federal Parent Locator Service

§ 113200. Non–Title IV–D Locate Only Requests.

(a) Each local child support agency shall accept requests from authorized requestors to access the Federal Parent Locator Service for the purpose of establishing parentage or establishing, setting the amount of, modifying, or enforcing child support orders.

(1) Authorized requestors under this section shall be limited to:

(A) Any agent or attorney of any state who has the duty or authority to seek to recover any amounts owed as child and spousal support under Title IV–D.

(B) The court which has authority to issue an order or to serve as the initiating court in an action to seek an order against a noncustodial parent for the support and maintenance of a child, or any agent of such court.

(C) The custodial party, legal guardian, attorney, or agent of a child who is not receiving public assistance.

(D) A California agency administering a program under either Title IV–B or Title IV–E.

(2) The Federal Parent Locator Service shall be accessed only by the California Parent Locator Service on behalf of authorized requestors under this section.

(3) Fees for Non–Title IV–D Locate Only requests shall:

(A) Not be eligible for federal financial participation.

(B) Be paid by the state and not charged to the requestor.

(b) Upon receipt of a request from an authorized requestor pursuant to subsection (a), above, each local child support agency shall:

(1) Complete the most current version of the "Parent Location and Asset Request for California Parent Locator Service," form CR60, issued by the Department of Justice, in hard copy or electronic media for accessing only the Federal Parent Locator Service. The CR60 completed pursuant to this subparagraph shall:

(A) Identify the request as a Non–Title IV–D Locate Only request.

(B) Contain the following information:

1. The name of the parent to be located.
2. The parent's date of birth and/or Social Security Number, if known.
3. Whether the parent is or has been in the armed services, if known.
4. Whether the parent is receiving, or has received, federal compensation or benefits, if known.

(2) Include a statement, as required by 45 CFR, Section 303.70(d), signed by the director of the local child support agency, or his or her designee, attesting that information is being sought by an authorized requestor for the purpose of establishing parentage or establishing, setting the amount of, modifying, or enforcing child support orders, or for determining who has or may have parental rights with respect to a child. Such statement shall also specify that information received through the Federal Parent Locator Service shall be treated as confidential and safeguarded in accordance with the requirements specified in Article 5, of Chapter 1.

(c) Each local child support agency that submits a request to the California Parent Locator Service to access the Federal Parent Locator Service shall:

(1) Ensure the requirements of Article 5, of Chapter 1, have been met with respect to safeguarding and disclosure of confidential information obtained from the Federal Parent Locator Service.

(2) Provide the information obtained from the Federal Parent Locator Service, for the purpose specified in subsection (a), to only the requestor.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17212, 17506, 17508 and 17514, Family Code; Section 11478.1, Welfare and Institutions Code; 42, U.S.C., Section 653; and 45 Code of Federal Regulations, Sections 302.35, 303.3 and 303.70.

HISTORY

1. New article 2 (sections 113200–113300) and section filed 9–4–2001 as an emergency pursuant to Family Code section 17306; operative 9–4–2001 (Register 2001, No. 36). A Certificate of Compliance must be transmitted to OAL by 3–4–2002 or emergency language will be repealed by operation of law on the following day.

2. New article 2 (sections 113200–113300) and section refiled 2–11–2002 as an emergency pursuant to Family Code section 17306; operative 3–6–2002 (Register 2002, No. 7). A Certificate of Compliance must be transmitted to OAL by 9–3–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 27).
4. Certificate of Compliance as to 2–11–2002 order, including amendment of section and NOTE, transmitted to OAL 9–3–2002 and filed 9–30–2002 (Register 2002, No. 40).

§ 113300. Non–Title IV–D Parental Kidnapping/Child Custody Locate Only Requests.

(a) Each local child support agency shall accept requests from authorized requestors to access the Federal Parent Locator Service to determine the whereabouts of any parent or any child for the purpose of enforcing any state or federal law pertaining to the unlawful taking or restraint of a child or making or enforcing a child custody or visitation order.

(1) Authorized requestors under this section shall be limited to:

(A) Any agent or attorney of any state having an agreement to use the Federal Parent Locator Service who has the duty or authority to enforce a child custody or visitation order.

(B) Any court, or its agent, having jurisdiction to make or enforce a child custody or visitation order.

(C) Any agent or attorney of the United States, who has the duty or authority to investigate, enforce, or bring a prosecution with respect to the unlawful taking or restraint of a child.

(2) The Federal Parent Locator Service shall be accessed only by the California Parent Locator Service on behalf of authorized requestors.

(3) Fees for Non–Title IV–D Parental Kidnapping/Child Custody Locate Only requests shall:

(A) Not be eligible for federal financial participation.

(B) Be paid by the state and not charged to the requestor.

(b) Upon receipt of a request from an authorized requestor, each local child support agency shall:

(1) Complete the form specified in Section 113200(b)(1) in hard copy or electronic media. The CR60 completed pursuant to this subparagraph shall:

(A) Identify the request as a Parental Kidnapping/Child Custody Federal Parent Locator Service Non–IV–D Locate Only request.

(B) Contain the birth date in addition to the information specified in Section 113200(b)(1)(B).

(2) Include a statement, as required by 45 CFR, Section 303.70(d), signed by the director of the local child support agency, or his or her designee, attesting that information is being sought by an authorized requestor for the purpose of enforcing any state or federal law pertaining to the unlawful taking or restraint of a child or making or enforcing a child custody or visitation order. Such statement shall also specify that information received through the Federal Parent Locator Service shall be treated as confidential and safeguarded in accordance with the requirements specified in Article 5, of Chapter 1.

(c) In addition to all requirements specified in Section 113200(c), each local child support agency shall:

(1) Restrict access to the information to authorized persons whose duties or responsibilities require access in connection with child custody and parental kidnapping cases.

(2) Store the information during nonduty hours, or when not in use, in a locked container within a secure area that is safe from access by unauthorized persons.

(3) Process the information under the immediate supervision and control of authorized personnel, in a manner which will protect the confidentiality of the information, and in such a way that unauthorized persons cannot retrieve the information by computer, remote terminal, or other means.

(4) Brief all employees who will have access to the data on security procedures and instructions.

(5) Send the information directly to the requestor and make no other use of the information.

(6) Destroy any confidential records and information related to the request, after the information is sent to the requestor. Such destruction shall be in accordance with Subchapter 1, Article 5, Section 111460.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17212, 17506, 17508 and 17514 Family Code; Section 11478.1, Welfare and Institutions Code; 42 U.S.C., Section 663; and 45 Code of Federal Regulations, Sections 302.35, 303.3, 303.15, 303.69 and 303.70.

HISTORY

1. New section filed 9–4–2001 as an emergency pursuant to Family Code section 17306; operative 9–4–2001 (Register 2001, No. 36). A Certificate of Compliance must be transmitted to OAL by 3–4–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 2–11–2002 as an emergency pursuant to Family Code section 17306; operative 3–6–2002 (Register 2002, No. 7). A Certificate of Compliance must be transmitted to OAL by 9–3–2002 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of HISTORY 2 (Register 2002, No. 27).
4. Certificate of Compliance as to 2–11–2002 order, including amendment of section and NOTE, transmitted to OAL 9–3–2002 and filed 9–30–2002 (Register 2002, No. 40).

Chapter 4. Establishing Paternity (Reserved)

Chapter 5. Review and Adjustment of Child Support Orders

§ 115500. Operative Date and Implementation.

This Chapter shall become operative and implemented upon the date in which the Director of the California Department of Child Support Services executes a declaration that states that the local child support agencies have begun to convert to the California Child Support Automation System, Version 2. A local child support agency shall be required to implement this Chapter once the local child support agency converts to the California Child Support Automation System, Version 2.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17304, 17306, 17310 and 17312, Family Code.

HISTORY

1. New chapter 5 (sections 115500–115550) and section filed 9–13–2004; operative 10–13–2004 (Register 2004, No. 38). For prior history, see Register 2003, No. 45.

§ 115503. Notification of the Right to Request Review for Adjustment.

(a) Each local child support agency shall mail a written notice, at least once every 3 years, to each party to a child support order with a current support obligation subject to enforcement by the local child support agency.

(b) The notice shall be mailed to the last known address of each party.

(c) The notice shall inform the parties of the following:

(1) The right to request, either written or orally, that the local child support agency review the current child support obligation for either an upward or downward adjustment based upon either of the following:

(A) A change in circumstance as specified in Section 115520 or Section 115530. The notice shall include examples of changes of circumstances.

(B) The need to include a provision for medical support.

(2) The name, address, and public telephone number of the local child support agency.

(3) The requirement that the local child support agency assist each party throughout the review and adjustment process by explaining the process, providing forms and information.

(4) The requirement that the local child support agency conduct a review for adjustment upon request and either obtain an adjusted order, or determine that the order should not be adjusted within 180 days from the date of a request for review and adjustment, or the date a non–requesting party has been located, whichever is later. The date of receipt of a request is the date the requesting party provides current and complete income and

expense Judicial Council forms and requested documents to the local child support agency.

(5) Notification that a request for review and adjustment in an interjurisdictional case, such as a case involving another state, may need to be forwarded to the agency having jurisdiction over the case for review and adjustment.

(6) The right of a party to file a motion for modification, order to show cause, or motion to set aside on his or her own behalf at anytime.

(7) The right of a party to obtain assistance from the local Family Law Facilitator.

(8) The name, address, and public telephone number of the local Family Law Facilitator.

(9) The availability of the complaint resolution and state hearing processes pursuant to 22 California Code of Regulations, Chapter 10, Section 120001 et seq.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17304 and 17401.5, Family Code; 42 U.S.C. 666(a)(10); and 45 CFR 302.70(a)(10), 303.4(c) and 303.8(b).

HISTORY

1. New section filed 9–13–2004; operative 10–13–2004 (Register 2004, No. 38).

§ 115510. Processing a Review for Adjustment of a Support Order — Request by a Party.

(a) When the local child support agency becomes aware, during communication with a party to a child support order with a current support obligation, that a change in circumstance pursuant to Section 115520 appears to exist, the local child support agency shall ask if the party wants the local child support agency to review the case and, if appropriate pursuant to Section 115535, seek an adjustment. The local child support agency shall:

(1) Immediately make a verbal inquiry if the local child support agency becomes aware of an apparent change in circumstance during verbal communication with a party.

(2) Make a verbal or written inquiry within 15 business days of becoming aware of an apparent change in circumstance by written communication from a party.

(b) Within 180 days from the date of a request for review for adjustment; or the date a non–requesting party has been located, whichever is later, the local child support agency shall conduct a review of the order and obtain an adjusted order, or determine that the order should not be adjusted. The date of receipt of the request is the date the requesting party provides current and complete income and expense Judicial Council forms and requested documents to the local child support agency.

(c) A local child support agency may, but is not required, to review a case for adjustment if the case has been reviewed for adjustment within the last six months and nothing has changed. If the local child support agency exercises its discretion not to review a case based upon this subsection, the local child support agency shall terminate the review and adjustment process in accordance with Section 115545(c).

(d) Interstate cases shall be handled pursuant to Title 22 California Code of Regulations, Section 117403.

(e) Within 15 business days of receiving an oral or written request for review for adjustment, the local child support agency shall:

(1) Determine whether one of the following appears to exist:

(A) A change in circumstance pursuant to Section 115520 is reasonably expected to last for more than three months.

(B) The parties stipulated to a child support order below the amount established by the statewide uniform guideline. No change of circumstance need be demonstrated to obtain an adjustment of the child support order to the applicable guideline level or above.

(C) A request is based upon the need to include a provision for medical support in the child support order.

(2) Terminate the review and adjustment process in accordance with Section 115545(c) if none of the three situations set forth in Section 115510(e)(1) appears to exist.

(3) Proceed pursuant to 22 California Code of Regulations, Section 116114 if a request is based upon the need to include a provision for medical support in the child support order.

(4) Take the following actions if a change in circumstance appears to exist pursuant to Section 115520 and is reasonably expected to last for more than three months, or the parties stipulated to a child support order below the amount established by statewide uniform guideline:

(A) Determine whether the non–requesting party's location is known.

(B) Determine whether a requesting party, who is a non–custodial parent, has multiple cases within the county. If so, the local child support agency shall proceed pursuant to Section 115510(e)(6)(E).

(5) Follow the procedure set forth in Section 115550 if the location of a non–requesting party is unknown.

(6) Provide to all parties, on the same date, by mail or personal delivery, the appropriate income and expense Judicial Council forms and/or a written notice as follows if the non–requesting party's location is known:

(A) A requesting party, who is a parent, shall be provided with the appropriate income and expense Judicial Council forms and a written notice. The written notice shall include the following information:

(i) The requesting party's current and complete income and expense Judicial Council forms, and requested documents are required to process the request for review for adjustment.

(ii) No action will be taken by the local child support agency until the requesting party provides current and complete income and expense Judicial Council forms and requested documents to the local child support agency.

(iii) The requesting party's failure to submit current and complete income and expense Judicial Council forms and requested documents to the local child support agency within 20 business days from the date of the notice will result in the local child support agency terminating the review and adjustment process.

(iv) The date of receipt of the request for review for adjustment is the date the requesting party provides current and complete income and expense Judicial Council forms, and requested documents to the local child support agency.

(B) A requesting party, who is not a parent, shall be provided with a written notice. The written notice shall include the following information:

(i) An acknowledgement of receipt of the request for review for adjustment.

(ii) The local child support agency's request that the requesting party provide information, which may affect a child support determination, within 20 business days of the date of the notice.

(C) A non–requesting party, who is a parent, shall be provided with the appropriate income and expense Judicial Council forms and a written notice. The written notice shall include all of the following information:

(i) A request for a review for adjustment has been made by another party.

(ii) The local child support agency requests that the non–requesting party provide his or her current and complete income and expense Judicial Council forms and requested documents.

(iii) The non–requesting party's failure to submit current and complete income and expense Judicial Council forms and requested documents to the local child support agency within 20 business days from the date of the notice will result in the local child support agency proceeding with the review for adjustment based upon the information provided by the other party and/or other verified information obtained by the local child support agency.

(D) A non–requesting party, who is not a parent, shall be provided with a written notice. The written notice shall include the following information:

(i) A request for a review for adjustment has been made by another party.

(ii) The local child support agency's request that the non–requesting party provide information, which may affect a child support determination, within 20 business days of the date of the notice.

(E) When a requesting party is a non–custodial parent who has multiple cases with the local child support agency, the local child support agency shall:

(i) Provide the forms and notice as discussed in Section 115510(e)(6)(A) to the requesting party and add a provision to the notice which states that a request for review for adjustment will be construed as a request for review of all of the party's cases within the county.

(ii) Process each of the custodial parties' cases collectively, if possible. If the location of a non–requesting party is unknown, the local child support agency shall follow the procedure set forth in Section 115550 for that particular non–requesting party. If the location of a non–requesting party is known, the local child support agency shall continue to process the request for review for adjustment by providing the forms and/or written notices to the non–requesting party as set forth in Section 115510(e)(6)(C) and (D).

(f) Within 15 business days of receipt of the requesting party's income and expense Judicial Council forms and requested documents, the local child support agency shall review the requesting party's income and expense Judicial Council forms and requested documents for completeness and, if incomplete, notify the requesting party, verbally or in writing, of the following:

(1) The requesting party's complete income and expense Judicial Council forms and requested documents are required before commencement of the review for adjustment.

(2) The specific deficiencies of the income and expense forms and/or failure to submit the forms or requested documents.

(3) Failure to correct the deficiencies within 35 business days of the date of the initial notice set forth in Section 115510(e)(6)(A) will result in the local child support agency terminating the review and adjustment process.

(g) Any alteration(s) to the requesting party's income and expense Judicial Council forms requires the requesting party's signature prior to a hearing.

(h) If the requesting party fails to correct the deficiencies within 35 business days of the date of the initial notice set forth in Section 115510(e)(6)(A), the local child support agency shall terminate the review and adjustment process pursuant to Section 115545(c).

(i) If the requesting party completes and submits income and expense Judicial Council forms and requested documents, the local child support agency shall review for adjustment as set forth in Section 115535 using the following, if applicable:

(1) The non–requesting party's complete and current income and expense Judicial Council forms and requested documents if the non–requesting party submitted such forms and requested documents within 20 business days of the date of the written notices as set forth in Section 115510(e)(6).

(2) The presumption as discussed in Section 115540 if the non–requesting party failed to submit current income and expense Judicial Council forms and requested documents within 20 business days of the date of the written notices as set forth in Section 115510(e)(6) and the presumption criteria is met.

(3) The court findings pursuant to Family Code Section 4058(b).

(4) The non–requesting party's current income and expense information contained within the case file and/or information obtained through automated locate tools and the Federal Case Registry.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 3680.5, 4065 and 17304, Family Code; 22 CCR 117403; 42 U.S.C. 666(a)(10); and 45 CFR 302.70(a)(10) and 303.8.

HISTORY

1. New section filed 9–13–2004; operative 10–13–2004 (Register 2004, No. 38). For prior history, see Register 2003, No. 45.

§ 115520. Changes in Circumstances — Review Requested by a Party.

(a) Any of the following changes in circumstances or combination of changes in circumstances shall be considered a basis for a review for adjustment. Changes in circumstances may include:

(1) A change in the obligee or obligor's employment status or income.

(2) A change in parenting time or custody. A court order showing a change in parenting time shall be prima facie evidence of a change in the parenting time.

(3) A change in additional child support costs or expenses incurred related to the following:

(A) Child care costs related to employment or reasonably necessary education or training for employment skills.

(B) Reasonable uninsured health care costs for the child(ren) as provided in Section 4063, Family Code.

(C) Costs related to the educational or other special needs of the child(ren).

(D) Travel expenses for visitation.

(4) A financial hardship on the obligee or obligor, as defined in Family Code Section 4071.

(5) The obligee or obligor begins or ceases receiving Unemployment Insurance Benefits, State Disability Insurance, or Worker's Compensation.

(6) Additional child support orders exist for which the obligor is responsible, which were not taken into account when the order was established or last adjusted.

(7) A change in the obligee or obligor's health insurance premium or the availability of health insurance through an employer.

(8) The release of the obligee/obligor from incarceration in a county jail, state or federal prison, or court–ordered rehabilitation facility.

(9) The release of the obligee/obligor from a psychiatric facility.

(10) Any other changes in circumstances that would affect the amount of support.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 3680.5 and 17304, Family Code; 42 U.S.C. 666(a)(10); and 45 CFR 302.70(a)(10) and 303.8.

HISTORY

1. New section filed 9–13–2004; operative 10–13–2004 (Register 2004, No. 38). For prior history, see Register 2003, No. 45.

§ 115525. Processing a Review for Adjustment — Initiated by the Local Child Support Agency.

(a) Within 15 business days of becoming aware of any potential change in circumstance set forth in Section 115530, the local child support agency shall:

(1) Provide the parties, who are parents, by mail or personal delivery, with the appropriate income and expense Judicial Council forms and a written notice. The written notice shall include the following information:

(A) The local child support agency is initiating a review for adjustment based upon a potential change in circumstance.

(B) The local child support agency requests that each parent provide his or her current and complete income and expense Judicial Council forms and requested documents.

(C) The party's failure to submit current and complete income and expense Judicial Council forms and the requested documents within 20 business days of the date of the notice will result in the local child support agency proceeding with the review for adjustment based upon the information the other party provides and/or verified information obtained by the local child support agency.

(2) Provide the parties, who are not parents, by mail or personal delivery, with a written notice that shall include the following information:

(A) The local child support agency is initiating a review for adjustment based upon a potential change in circumstance.

(B) A request that specific information, which may affect a child support determination, be submitted within 20 business days of the date of the notice.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 3680.5 and 17304, Family Code; 42 U.S.C. 666(a)(10); and 45 CFR 302.70(a)(10) and 303.8.

HISTORY

1. New section filed 9–13–2004; operative 10–13–2004 (Register 2004, No. 38).

§ 115530. Changes in Circumstances — Automatic Review by Local Child Support Agency.

(a) Any of the following changes in circumstances or combination of changes in circumstances shall be considered a basis for an automatic review for adjustment. Changes in circumstances shall be limited to:

(1) The obligor or obligee is incarcerated in a county jail, state or federal prison, or court–ordered rehabilitation facility and there is no evidence of support potential. If the obligor is incarcerated, the local child support agency shall seek to adjust the current order to zero, and refer to the case closure regulations at 22 California Code of Regulations, Section 118203(a)(5)(B) to determine if case closure is appropriate.

(2) The obligor's sole income is Supplemental Security Income/State Supplementary Payment, CalWORKs, or any other public assistance program for which eligibility is determined on the basis of need, and that income was used in determining the amount of the support order. If the obligor's sole income is Supplemental Security Income/State Supplementary Payment, the local child support agency shall seek to adjust the current order to zero, and refer to the case closure regulations at 22 California Code of Regulations, Section 118203(a)(5)(D) to determine if case closure is appropriate. Pursuant to Section 17400.5, Family Code, the local child support agency shall file a motion to modify the order within 30 days of verification of receipt of the Supplemental Security Income/State Supplementary Payment.

(3) The obligor stops receiving Supplemental Security Income/State Supplementary Payment, CalWORKs, or any other public assistance program for which eligibility is determined on the basis of need.

(4) The obligor has a medically verified total and permanent disability with no evidence of support potential. The local child support agency shall seek to adjust the current order to zero and refer to the case closure regulations at 22 California Code of Regulations, Section 118203(a)(5)(C) to determine if case closure is appropriate.

(5) The obligor is institutionalized in a psychiatric facility and has no evidence of support potential. The local child support agency shall seek to adjust the current order to zero and refer to the case closure regulations at 22 California Code of Regulations, Section 118203(a)(5)(A) to determine if case closure is appropriate.

(6) The child support order was based on presumed income, and the actual income or income history of the obligor becomes known.

(7) The obligor or obligee's health insurance premium was not included in the guideline (Family Code Section 4055) calculation when the child support was established or last adjusted.

(8) The obligor or obligee is a reservist in the military and is called to active duty.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 3680.5, 17304, 17400.5, 17432 and 17516, Family Code; 42 U.S.C. 666(a)(10); and 45 CFR 302.70(a)(10) and 303.8.

HISTORY

1. New section filed 9–13–2004; operative 10–13–2004 (Register 2004, No. 38).

§ 115535. Review for Adjustment.

(a) Within 40 business days of the date of the written notices provided to a party as set forth in Sections 115510(f)(6), or 115525. The local child support agency shall:

(1) Verify whether either of the following situations exists:

(A) A change in circumstance pursuant to either Section 115520 or Section 115530 exists and is reasonably expected to last for more than three months.

(B) The parties stipulated to a child support order below the amount established by the statewide uniform guideline. No change of circumstance need be demonstrated to obtain an adjustment of the child support order to the applicable guideline level or above.

(2) Terminate the review and adjustment process in accordance with 115545(c), if such a change in circumstance does not exist or is not reasonably expected to last for more than three months, and the parties did not stipulate to a child support order below the amount established by the statewide uniform guideline.

(3) Determine whether the amount of the support would be altered, upward or downward, by at least 20% or $50, whichever is less, in instances where a change in circumstance exists and is reasonably expected to last for more than three months, or the parties stipulated to a child support order below the amount established by statewide uniform guideline. The LCSA shall determine the 20% or $50 alteration by either:

(A) Calculating the guideline amount based upon the income and expense information of the parties, or

(B) Presuming that the amount of the support is altered, if the presumption criteria in Section 115540 is met.

(b) The local child support agency shall use the income and expense Judicial Council forms and requested documents provided by a party and/or income and expense information obtained by the local child support agency instead of presuming a 20% or $50 alteration in the child support amount to calculate the guideline amount if the information is provided or obtained at any time prior to the court order modifying the amount of support.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17304, Family Code; 42 U.S.C. 666(a)(10); and 45 CFR 302.70(a)(10) and 303.8.

HISTORY

1. New section filed 9–13–2004; operative 10–13–2004 (Register 2004, No. 38).

§ 115540. Presumption.

(a) The local child support agency shall presume the amount of the support is altered, upward or downward, by at least 20% or $50, whichever is less, if all of the following are met:

(1) A party fails to return the requested income and expense Judicial Council forms and requested documents within 20 business days from the date of the written notice as set forth in Section 115510(f)(6), or Section 115525.

(2) The local child support agency provided the written notice either by personal delivery to the party, or by mail to the party's "last known address", and the information was not returned to the local child support agency as undeliverable.

(3) The local child support agency has no current income and expense information for the party in the case file.

(4) The local child support agency is unable to obtain information on the party through automated locate tools and the Federal Case Registry.

(5) The income and expense Judicial Council forms and requested documents, provided by either the requesting party as set forth in Section 115510(f)(6), or a party as set forth in Section 115525, or a verified change in circumstance as set forth in Section 115530 suggests a change in the amount of the child support order, upward or downward, by at least 20% or $50, whichever is less.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17304, Family Code; 42 U.S.C. 666(a)(10); and 45 CFR 302.70(a)(10) and 303.8.

HISTORY

1. New section filed 9–13–2004; operative 10–13–2004 (Register 2004, No. 38).

§ 115545. Process After Adjustment Criteria Assessed.

(a) Within 15 business days of determining that it is appropriate to seek an adjustment, the local child support agency shall take one of the following actions:

(1) File a motion for modification or an order to show cause to seek an adjustment with the court and serve the notice of motion for modification or order to show cause on the parties. Service shall be conducted in accordance with the requirements of Section 1013, Code of Civil Procedure or any other manner allowed in the Code of Civil Procedure.

(2) File a motion to set aside the child support order and serve the notice of motion to set aside on the parties if a child support order meets the

criteria for set aside pursuant to Section 17432, Family Code. Service shall be conducted in accordance with the requirements of Section 1013, Code of Civil Procedure or any other manner allowed in the Code of Civil Procedure.

(3) Enter into a stipulation with all necessary parties and file the stipulation with the court.

(b) Within 14 days of the issuance of an adjusted order, the local child support agency shall send a copy of the adjusted court order to the parties.

(c) Within 14 days of a determination that an adjustment will not be sought, the local child support agency shall provide, by mail or personal delivery, a written notice of the determination to the parties which includes the following information:

(1) The local child support agency's determination that it will not seek an adjustment of the child support order because of one of the following:

(A) The criteria was not met.

(B) The order has been reviewed for an adjustment within the last six months and nothing has changed since the last time the requesting party requested a review.

(C) The requesting party failed to submit current and complete income and expense forms and/or the requested documents.

(2) An explanation of why the adjustment criteria was not satisfied, if applicable.

(3) A statement informing the parties that each party may file his or her own notice of motion or order to show cause for adjustment of the child support order and may obtain the necessary forms from the local child support agency.

(4) A statement informing the parties of the option to obtain the assistance of the local Family Law Facilitator.

(5) The name(s), address and public telephone number for the local Family Law Facilitator.

(6) Information on the availability of the complaint resolution and state hearing processes pursuant to 22 California Code of Regulations, Chapter 10, Section 120001 et seq.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17304, 17401.5 and 17406(g) Family Code; 42 U.S.C. 654(12)(B) and 666(a)(10); and 45 CFR 302.70(a)(10) and 303.8.

HISTORY

1. New section filed 9–13–2004; operative 10–13–2004 (Register 2004, No. 38).

§ 115550. Locate for Purposes of Review for Adjustment — Request by a Party.

(a) Within 15 business days of determining that a non–requesting party's location is unknown, the local child support agency shall access all appropriate locate tools, as set forth in 22 California Code of Regulations, Section 113100, for a period of 30 business days.

(b) If the non–requesting party is located within 30 business days of accessing the appropriate locate tools pursuant to 22 California Code of Regulations, Section 113100, the review and adjustment timeframes shall resume effective on the date the non–requesting party is located.

(c) If the local child support agency is unable to locate the non–requesting party within 30 business days of accessing all appropriate locate tools pursuant to 22 California Code of Regulations, Section 113100, the local child support agency shall terminate the review and adjustment process and send a written termination notice to the requesting party within 14 days of the expiration of the 30th business day of accessing the appropriate locate tools. The termination notice shall contain the following information:

(1) The local child support agency does not have a current address for the non–requesting party and, as a result, the review and adjustment process cannot proceed and has been terminated.

(2) The requesting party should contact the local child support agency to share any information he or she has regarding the non–requesting party's location.

(3) The local child support agency will continue locate efforts as required by 22 California Code of Regulations, Section 113100 et seq.

(4) The local child support agency will process a new request for review for adjustment in the future provided that the requesting party renews his or her request.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17212, 17304, 17505, 17506, 17508, 17512 and 17514, Family Code.

HISTORY

1. New section filed 9–13–2004; operative 10–13–2004 (Register 2004, No. 38).

Chapter 6. Enforcement Actions

Article 1. Definitions

§ 116004. Alternate Arrangement.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 5260, Family Code; and 45 Code of Federal Regulations, Section 303.100(b)(3).

HISTORY

1. New chapter 6, article 1 (sections 116004–116063) and section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New chapter 6, article 1 (sections 116004–116063) and section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New chapter 6, article 1 (sections 116004–116063) and section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).
5. Change without regulatory effect renumbering former section 116004 to new section 110048 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 116018. Credit Reporting Agencies.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4701, Family Code; 42 USC, Section 666(a)(7); and 45 Code of Federal Regulations, Section 302.70(a)(7).

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).
5. Change without regulatory effect renumbering former section 116018 to new section 110212 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 116036. Independent Contractor Registry.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 5206, Family Code; and Section 1088.8, Unemployment Insurance Code.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).

5. Change without regulatory effect renumbering former section 116036 to new section 110434 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 116038. Intercounty Responding Case.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).
5. Change without regulatory effect renumbering former section 116038 to section 110458 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 116042. Intracounty Case.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).
5. Change without regulatory effect renumbering former section 116042 to new section 110470 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 116061. Plan Administrator.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).
5. Change without regulatory effect renumbering former section 116061 to new section 110662 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 116062. Real Property.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).
5. Change without regulatory effect renumbering former section 116062 to new section 110694 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 116063. Real Property Lien.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17310 and 17312, Family Code.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).
5. Change without regulatory effect renumbering former section 116063 to new section 110698 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

Subchapter 6.1. Immediate Enforcement Actions

Article 1. Income Withholding Orders

§ 116100. Preparing and Serving an Income Withholding Order—General Requirements and Timeframes.

(a) If a child support order exists, a local child support agency shall serve an income withholding order on an obligor's employer, unless a court has ordered that service be stayed. The income withholding order shall specify the following amounts, as applicable, to be withheld from the obligor's disposable earnings whether for child, family, spousal, and/or medical support:

(1) The amount(s) of current support specified in the most recent support order.

(2) The amount specified in the court order to be withheld for the liquidation of any support arrearage.

(3) An amount to be withheld for the liquidation of any support arrearage, if no amount(s) of payment toward any arrearage is specified in the court order, or additional arrears have accrued after the date of a court order for support. If both current support and arrearages exist, the amount to be withheld from salary or wages towards the liquidation of arrearages shall not exceed 25 percent of the current support order, or when combined with the current support amount, the maximum amount withheld cannot exceed 50 percent of the obligor's disposable earnings.

(A) In addition to the amount specified in (a)(3) above, when an obligor's current support obligation for a child terminates by operation of law but an arrearage balance exists, the local child support agency shall serve an amended income withholding order on the obligor's employer within 30 days that provides for a monthly payment that is equal to the current support payment that has terminated for each child, to be applied towards the liquidation of arrearages not to exceed the maximum amount withheld cannot exceed 50 percent of the obligor's disposable earnings.

(B) An income withholding order issued by a local child support agency for the liquidation of arrearages, shall not exceed five percent of a disabled obligor's total monthly Social Security Disability Insurance (SSDI) benefits pursuant to Title II of the Social Security Act, if the obligor provides the local child support agency with proof that the obligor meets the Supplemental Security Income (SSI) resource test and is receiving SSI/State Supplementary Program (SSP) benefits and/or SSDI,

or, but for excess income, would be eligible to receive SSI/SSP. Proof that the obligor is otherwise eligible for SSI/SSP, but for excess income, includes SSDI check stubs and self certification by the obligor declaring under penalty of perjury that the obligor meets the SSI resource limits.

(b) In addition to the original income withholding order served on an employer, a local child support agency also shall serve, the following on the obligor's employer to deliver to the obligor:

(1) A second copy of the income withholding order.

(2) A blank request for hearing regarding wage and earnings assignment, and the information sheet for request for hearing regarding wage and earnings assignment.

(c) An income withholding order and the documents specified in subsection (b) shall be served on an obligor's employer:

(1) Within 15 days of any of the following:

(A) The date the support order is received by the local child support agency, if the address of the obligor's employer is known on that date.

(B) The date the obligor's employer is located. If the obligor's employer is located through the State Directory of New Hires, the income withholding order shall be served within the timeframe specified in subparagraph (2), below.

(C) The date the local child support agency opens a case, if the address of the obligor's employer is known on that date and the support order was entered prior to case opening, and the local child support agency confirms the existence of the court order. The local child support agency shall take appropriate action to confirm the existence of the court order within 10 days of opening the case.

(D) The date information is received from the Independent Contractor Registry.

(E) The date the foreign state order is registered by the local child support agency in California pursuant to Section 117503 and the employer is known.

(2) Within two business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires.

(d) Service on an employer of the documents specified in subsections (a) and (b) may be made by either:

(1) Electronic means, such as fax or email.

(2) First class or express mail.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 5206, 5232 and 5246, Family Code; 15, United States Code, Section 1673(b); 42 United States Code, Sections 653a(g), 666(a)(8) and (b); and 45 Code of Federal Regulations, Section 303.100.

HISTORY

1. New subchapter 6.1 (articles 1–4, sections 116100–116140) article 1 (sections 116100–116110) and section filed 10–21–2002 as an emergency: operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New subchapter 6.1 (articles 1–4, sections 116100–116140) article 1 (sections 116100–116110) and section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New subchapter 6.1 (articles 1–4, sections 116100–116140, article 1 (sections 116100–116110) and section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).

§ 116102. Hearing Request Regarding an Income Withholding Order.

If an obligor requests a hearing concerning an income withholding order served upon his/her employer, the local child support agency shall file a copy of the income withholding order with the court and be present at the hearing. If, at the hearing, the court:

(a) Quashes service of the income withholding order, the local child support agency shall provide written notification of the court's order to the obligor's employer within 10 business days of receipt of the court order. Such notification shall be sent by first class mail and fax or other electronic means and include a copy of the order quashing the income withholding order.

(b) Modifies the monthly payment due on arrearages, the local child support agency shall serve on the obligor's employer an amended income withholding order that reflects the court–ordered modifications within 10 days of receipt of the court order.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 5246, Family Code.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).

§ 116104. Stay of Service of an Income Withholding Order.

(a) If a court previously ordered that service of an income withholding order be stayed, and the order requires further application to the court to lift the stay, a local child support agency shall make application to the court to terminate the stay within 10 days of any of the following:

(1) An obligor no longer meets the requirements specified in Section 5260, Family Code, for staying an income withholding order for good cause.

(2) An obligor requests termination of the stay.

(3) An obligor has failed to make a payment of support within 30 days of the due date.

(4) The date on which the custodial party requests that withholding begin.

(b) A local child support agency shall make application to the court for a lift of stay by filing with the court a declaration, signed under penalty of perjury by the obligee, that the obligor has failed to make timely support payments, within 30 days.

(c) A local child support agency shall be present at any court proceeding of which the local child support agency has received notice that the issue of a stay of service of an income withholding order is properly before the court.

(d) Upon termination of a stay of service, a local child support agency shall serve an income withholding order on the obligor's employer as specified in Section 116100.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 5260 and 5261, Family Code; and 45 CFR Section 303.100.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).

§ 116106. Terminating an Income Withholding Order.

Within 10 days of any of the following, a local child support agency shall provide written notification by first class mail, fax, or other electronic means, to an obligor's employer to terminate enforcement of an income withholding order:

(a) There is no longer a current order for support and past due support, including any interest and costs has been paid in full.

(b) Upon learning that the child who is the subject of the order has died or is emancipated and past due support, including any interest and costs has been paid in full.

(c) The local child support agency has used locate sources pursuant to Section 113100(h) and has not been able to locate and deliver payments to an obligee for a period of six months because the obligee has moved and failed to notify the local child support agency of the change in his/her address and there are no arrears that have been assigned to the State.

(d) The court determines that there is good cause as specified in Family Code Section 5260 to terminate the income withholding order.

(e) The obligor meets the conditions of an alternative arrangement as specified in Family Code Section 5260.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 5240 and 5260, Family Code; and 45 Code of Federal Regulations, Section 303.100(a)(7).

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).

§ 116108. Employer Non–Compliance—Notification Timeframes, Electronic Funds Transfer, and Documentation Requirements.

(a) If an obligor's employer does not comply with an income withholding order by withholding support from an obligor's disposable earnings and forwarding that support to a local child support agency within 45 days of service of the order, the local child support agency shall:

(1) Fax or electronically transmit a copy of the income withholding order to the obligor's employer, along with a letter indicating that failure to comply with an income withholding order is punishable as contempt.

(2) If the employer cannot receive a fax or other electronic transmission, send by certified mail a copy of the income withholding order along with the letter specified in (a)(1) above.

(b) If a local child support agency has electronic funds transfer capability, the local child support agency shall complete and file with the court an order to show cause to request a court order that requires payment of support by electronic funds transfer from the bank account of the obligor's employer, if either of the following conditions exist:

(1) An obligor's employer willfully failed to comply with an income withholding order, or

(2) An obligor's employer failed to comply with an income withholding order on three separate occasions within a 12 month period.

(c) A local child support agency shall personally serve the obligor's employer with a copy of the order to show cause, if either of the conditions specified in subsection (b) above, exist.

(d) A local child support agency shall document in the case record the following information regarding an employer's non–compliance with an income withholding order:

(1) The date the income withholding order was initially served on the employer.

(2) The date(s) of all verbal and/or written notification, including copies of written notification(s).

(3) The date the order to show cause permitted by subsection (b) was served.

(4) Any other information and/or documentation pertaining to the employer's failure to comply with the income withholding order.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. References: Sections 5241 and 5245, Family Code.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).

§ 116110. Employer Contempt Procedures.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. References: Section 706.029, Code of Civil Procedures; and Sections 5241 and 5245, Family Code.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of action by operation of Government Code section 11346.1 (Register 2004, No. 19).

[The next page is 1472.10(k).]

Article 2. Medical Support Enforcement

§ 116114. General Requirements.

(a) When a local child support agency determines that an existing support order for current support does not contain a health insurance coverage provision, except as provided in Subsection (b), the local child support agency shall concurrently:

(1) File a notice of motion or order to show cause with the court to include a health insurance coverage provision in the support order.

(2) Serve by first class mail, a blank form "Dependent's Health Insurance Information," CSS 4330, dated 04/02, incorporated by reference herein, on the obligor, along with written notification that the form shall be completed by the obligor and returned to the local child support agency within 20 days of the date of the notification.

(3) If an obligor's employer is known, serve by first class mail, a blank form "Employees' Dependent Health Insurance Information," CSS 4333, dated 04/02, incorporated by reference herein, on the employer, along with written notification that the form shall be completed by the employer and returned to the local child support agency within 30 days of the date of the notification.

(b) If an obligee in a non–Title IV–A case informs the local child support agency that there is private health insurance coverage for his or her child(ren) and does not want enforcement services for health insurance coverage, a local child support agency shall:

(1) Obtain health insurance coverage documentation pursuant to Section 116122, subsection (b)(1), (2), and (4) which shows that the minor child(ren) is currently covered by private health insurance.

(2) Document the evidence of health insurance coverage for the minor child(ren) in the case file.

(c) Upon receipt of a support order requiring an obligor to provide health insurance coverage, a local child support agency shall take the following actions:

(1) If health insurance coverage is available at a reasonable cost to the obligor's minor child(ren), a local child support agency shall:

(A) Comply with the requirements of Section 116116 for employment–related group health insurance coverage, or

(B) Comply with the requirements of Section 116122 for other group health insurance coverage.

(2) If health insurance coverage is not available at a reasonable cost to an obligor's minor child(ren), a local child support agency shall monitor the case for changes in the obligor's employment status, and/or availability of employment–related health insurance coverage, or other group health insurance.

(A) If information is received that the status of the obligor's employment has changed, or that employment–related health insurance coverage is available, a local child support agency shall serve the National Medical Support Notice, as specified in Section 116116.

(B) If information is received that other group health insurance may be available to an obligor, a local child support agency shall obtain proof of health insurance coverage for the child(ren), as specified in Section 116122.

(d) A local child support agency shall complete a "Medical Insurance Form," DHS 6110 for all Title IV–A or IV–E cases as required by Title 22, California Code of Regulations, Section 50765, and forward the form to the Department of Health Services, Third Party Liability Branch, within 10 business days of the date health insurance coverage enrollment information for the minor child(ren) has been received by the local child support agency.

(e) A local child support agency shall update the "Medical Insurance Form," DHS 6110 specified in subsection (d), and forward the form to the Department of Health Services, Third Party Liability Branch, within 10 business days of the date of notification of any of the following affecting a recipient of Title IV–A or IV–E services:

(1) Any health insurance coverage has lapsed.

(2) Any health insurance coverage provider has changed.

(3) Any term of the health insurance coverage has changed.

(4) Any health insurance coverage has been terminated.

(5) Any medical support order or assignment order has been quashed or set aside by court order.

(f) The local child support agency shall forward any health insurance policy information received from a Plan Administrator to the obligee within 10 business days of the receipt of such information. Health insurance policy information shall include the information specified in Section 116122(b).

(g) A local child support agency shall document the case record and include copies of the forms and notices required by this Article.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 3751, 3751.5, 3752, 3763, 3767, 3771, 3773, 17400(a), 17422 and 17424, Family Code; 22 California Code of Regulations, Section 50765; and 45 Code of Federal Regulations, Sections 303.31 and 303.32.

HISTORY

1. New article 2 (sections 116114–116124) and section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New article 2 (sections 116114–116124) and section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New article 2 (sections 116114–116124) and section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).

§ 116116. Serving a National Medical Support Notice—General Requirements and Timeframes.

(a) If an order requiring an obligor to provide health insurance coverage for his/her minor child(ren) exists, a local child support agency shall complete and serve a "National Medical Support Notice (NMSN)," Part A, "Notice to Withhold for Health Care Coverage," OMB 0970–0222, and Part B, "Medical Support Notice to Plan Administrator," OMB 1210–0113, on an obligor's employer, upon of receipt of employer information pursuant to the timeframes specified in Section 116100(c).

(b) A local child support agency shall specify on the National Medical Support Notice that the total amount withheld for both current support and health insurance premiums shall not exceed 50 percent of the obligor's disposable earnings, or the amount that is indicated on the court order/judgment, whichever is less. If funds are insufficient to withhold for both current support and health insurance premiums, a local child support agency shall:

(1) For Title IV–A or IV–E cases, specify that the employer withhold for current support.

(2) For non–Title IV–A cases, contact the obligee to determine whether he/she chooses to have the employer withhold for either, current support or health insurance premiums and specify the obligee's decision on the National Medical Support Notice. If the obligee does not respond within 10 days after the initial contact attempt, then the local child support agency shall specify that the employer withhold for current support.

(c) In addition to the notice specified in subsection (a), a local child support agency also shall serve the following on an obligor's employer, upon receipt of employer information pursuant to the timeframes specified in Section 116100(c):

(1) The form and notice specified in Section 116114(a)(3).

(2) A written request that the employer provide written notification to the local child support agency within 10 business days of any lapse in health insurance coverage for the minor child(ren) that includes all of the following information:

(A) The reason(s) for the lapse in health insurance coverage.

(B) Whether or not the lapse is temporary.

(C) The date upon which coverage is anticipated to resume, if the lapse is temporary.

(3) Written notification that the employer is required to deliver a copy of the National Medical Support Notice to the obligor within 10 days of receipt of the order, along with a written statement of the obligor's rights and the procedures under the law to seek to quash such an order.

(d) The local child support agency shall serve the following pursuant to the timeframes specified in Section 116100(c) and by a method specified in 116100(d):

(1) All documents specified in this section,

(2) An income withholding order, if:

(A) A current support order and/or arrearages exist, and

(B) A current income withholding order has not already been served on the employer.

NOTE: Authority cited: Sections 17306, 17310, 17312 and 17512 Family Code. Reference: Section 706.052, Code of Civil Procedure; Sections 3764, 3768, 3771 and 3773, Family Code; 15 United States Code, Section 1673(b); and 45 Code of Federal Regulations, Section 303.32.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).

§ 116118. Processing the National Medical Support Notice.

(a) Upon receipt of a completed National Medical Support Notice, Part A, from an obligor's employer indicating that court–ordered health insurance coverage for the minor child(ren) cannot be provided, a local child support agency shall:

(1) Provide written notification to the obligor within 10 business days of receipt of Part A that other group health insurance coverage must be provided when it is available at no or reasonable cost.

(2) Provide written notification to the obligee within 10 business days of receipt of Part A that the court–ordered health insurance coverage cannot be enforced for one of the following reasons:

(A) The obligor's employer does not maintain or contribute to a plan providing dependent or family health care coverage.

(B) The obligor is among a class of employees ineligible for family health coverage under any group health plan maintained by the employer or to which the employer contributes.

(C) The obligor is no longer employed by the employer.

(D) State or federal withholding limitations prevent withholding from the obligor's disposable earnings the amount required to obtain coverage under the terms of the employer's group health insurance plan.

(3) Request written or oral notification from the obligor's employer within 15 days of any change in status or circumstance which would result in the eligibility of the obligor's child(ren) for health insurance coverage.

(b) Upon receipt of a completed National Medical Support Notice, Part B, indicating that the minor child(ren) of the obligor is/are, or will be enrolled under the obligor's health insurance coverage, a local child support agency shall take the action required by Section 116114(d), if the obligor's child(ren) is/are receiving Title IV–A or IV–E services.

(c) Upon receipt of a completed National Medical Support Notice, Part B, from a Plan Administrator indicating there is more than one option available under a health insurance coverage plan, and the obligor is not enrolled in any option under the plan or refuses to enroll in one of the options, a local child support agency shall:

(1) Provide written notification to the obligee within five business days of receipt of Part B of all of the following:

(A) A description of the health insurance coverage plan options available through the obligor's employment, including whether additional contributions will be necessary by the obligor to obtain coverage for the child(ren) under each option, and whether there is a limited service area for any option.

(B) Notice that the obligee must select a plan for the child(ren) from the available health insurance plans within 10 days of receipt of the written notification from the local child support agency.

(C) Notice that failure by the obligee to select a health insurance coverage plan option within 10 days of receipt of the written notification from the local child support agency will result in enrollment of the child(ren) in the default option, if any.

(D) Notice that if the plan does not have a default option the local child support agency shall determine and select the available plan that will provide the lowest cost plan that provides coverage where the child resides.

(2) Provide written notification to the Plan Administrator, within 20 business days after the postmark date of the receipt of Part B, of the option selected by the obligee or the local child support agency.

(d) Upon receipt of a completed National Medical Support Notice, Part B, indicating that the notice does not constitute a qualified medical child support order because:

(1) The name or mailing address of the minor child(ren) or obligor is unavailable, a local child support agency shall take all actions necessary to obtain missing information, including accessing all appropriate locate sources specified in Section 113100, and resubmit a National Medical Support Notice to the Plan Administrator within five business days after obtaining all necessary information.

(2) The child(ren) identified in the notice is/are at or above the age at which dependents are no longer eligible for coverage under the plan, a local child support agency shall verify the information provided to the Plan Administrator is correct within five business days of the receipt of the completed Part B.

(A) If erroneous information pertaining to the age of the child(ren) was provided, a local child support agency shall inform the Plan Administrator in writing, by telephone, or electronic means of the error and provide documentation to the Plan Administrator verifying the age of the child(ren) within five business days of the receipt of the completed Part B.

(B) If the child(ren) is/are at or above the age at which dependents are no longer eligible for coverage under the plan, a local child support agency shall provide written notification of such to the obligee within five business days of receipt of the completed Part B.

(e) A local child support agency shall provide written notification to an obligee within five business days of receiving notice from a Plan Administrator of any lapse of health insurance coverage for the minor child(ren).

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 3751.5, 3752(c), 3766, 3773, 17422 and 17424(b), Family Code; and 45 Code of Federal Regulations, Section 303.32.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).

§ 116120. Terminating a National Medical Support Notice.

(a) A local child support agency shall terminate the National Medical Support Notice within 10 days of obtaining any of the following documentation:

(1) An order for medical support that was quashed or terminated by the court.

(2) An order for medical support is no longer in effect.

(3) Proof that the child(ren) has died or reached the age of emancipation.

(4) A request in writing from an obligee in a non–Title IV–A case to cease medical support establishment and enforcement services. The local child support agency shall follow procedures pursuant to Section 116114(b).

(5) A request in writing from an obligee in a non–Title IV–A case to close a case.

(b) Upon terminating the National Medical Support Notice for any reasons specified in subsection (a), the local child support agency shall update the case file and notify the obligor, obligee and the obligor's employer in writing of the following:

(1) If the National Medical Support Notice was terminated for the reasons specified in either subsection (a)(1), (2), or (3), that there is no longer a current order for medical support in effect and that the obligor may continue health insurance coverage voluntarily for any qualifying dependents.

(2) If the National Medical Support Notice was terminated for the reason specified in either subsection (a)(4) or (5), that there is still a medical support order in effect, that the obligor must continue health insurance coverage for the child(ren) unless the order for health insurance is terminated by the court, and that the obligor may continue health insurance coverage voluntarily for any other qualifying dependents.

(c) If the local child support agency is notified that the health insurance coverage is terminated or changed, the local child support agency shall complete the "Medical Insurance Form" DHS 6110 pursuant to Section 116114.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 3751.5 and 3770, Family Code; and 45 Code of Federal Regulations, Section 303.32.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).

§ 116122. Other Health Insurance Coverage.

(a) If an order requiring an obligor to provide health insurance coverage for his/her minor child(ren) exists, and other group health insurance coverage is available, or the court ordered individual health insurance coverage, a local child support agency shall request in writing, proof of health insurance coverage from the obligor, or the entity providing other group health insurance. The request shall:

(1) Be made within 10 days of service of the order on the obligor requiring the provision of health insurance coverage; and

(2) Include a written statement of the obligor's right and the procedures under the law to seek to quash the order.

(b) Proof of health insurance coverage shall include, but not be limited to:

(1) The health insurance membership or identification card(s) for the child(ren).

(2) The evidence of coverage and disclosure form from the health insurance provider.

(3) Claim forms and other documents necessary to submit claims.

(4) Any other pertinent information provided to the obligor, or received from the entity providing other group health insurance coverage, about health insurance coverage for the child(ren).

(c) The local child support agency shall request in writing that the other group health insurance provider provide written notification to the local child support agency within 10 business days of any lapse in health insurance coverage for the minor child(ren) that includes all of the following information:

(1) The reason(s) for the lapse in health insurance coverage.

(2) Whether or not the lapse is temporary.

(3) The date upon which coverage is anticipated to resume, if the lapse is temporary.

(d) Within five business days of receipt of the information specified in subsection (b), a local child support agency shall provide the obligee with such information.

(e) A local child support agency shall review the case for civil or criminal prosecution of an obligor if the obligor has willfully failed to provide health insurance coverage as ordered by the court.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 3751, 3751.5 and 3752, Family Code.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).

§ 116124. Employer Non–Compliance and Employer Contempt Procedures.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 3766 and 3768, Family Code.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of action by operation of Government Code section 11346.1 (Register 2004, No. 19).

Article 3. Real Property Liens

§ 116130. Recording/Creating Real Property Liens.

(a) A local child support agency shall record a real property lien against the real property of an obligor to obtain compliance with money judgments or orders enforced by a local child support agency pursuant to Title IV–D of the Social Security Act. A local child support agency shall prepare and submit for recording a real property lien within 45 days of the date a money judgment or order is received by the local child support agency, a case is opened for enforcement of an existing order or judgment, or an existing order is registered for enforcement. A local child support agency shall not record a real property lien when the order indicates a zero support amount, or when the order is reserved.

(b) A local child support agency shall not record a real property lien against the real property of an obligor who has filed for bankruptcy under Chapter 13, except in those instances where the real property is not part of the bankruptcy estate.

(c) A local child support agency shall record a real property lien for the following types of cases:

(1) Intercounty responding cases.

(2) Intracounty cases.

(3) Interstate initiating cases. Real property liens shall only be recorded if the obligor is known to have or is likely to acquire real property interests in California.

(4) Interstate responding cases.

(d) A local child support agency shall record a real property lien by recording with the county recorder one of the following:

(1) An abstract of support judgment.

(2) An Abstract of Support Judgment (notice of support judgment) Form CA 8580 (7/1/03).

(3) A certified copy of the order/money judgment.

(4) A federal Notice of Lien. The local child support agency shall record such a lien in another state when the custodial party resides in California and the obligor resides in a state other than California only if the local child support agency does not request enforcement by another state through the two-state interstate process as specified in Chapter 7.

(e) A local child support agency shall record a real property lien as follows:

(1) In the county where the obligor resides.

(2) In the counties where the parent(s) of the obligor resides, if known and if different from the county of the obligor.

(3) In the counties where the obligor is known to have, or could reasonably be expected to acquire, real property.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 674, 697.060 and 697.320, Code of Civil Procedure; Sections 4506.1–4506.2, Family Code; 11 United States Code, Sections 362(b)(2)(B) and 523(a)(18); 42 United States Code, Section 666(a)(4); and 45 Code of Federal Regulations, Section 302.70(a)(4).

HISTORY

1. New article 3 (sections 116130–116134) and section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New article 3 (sections 116130–116134) and section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New article 3 (sections 116130–116134) and section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).

§ 116132. Satisfaction of Judgment/Substitution of Payee.

(a) Upon satisfaction of a support obligation, a local child support agency shall within the time frames established in subsections (c) through (d) file a full satisfaction of judgment, or a matured installment satisfaction by doing both of the following:

(1) File an acknowledgment of satisfaction of judgment with the court.

(2) Provide the obligor with an acknowledgement of satisfaction of judgment that can be recorded in any county in which an abstract of support judgment, or certified copy of the judgment was filed.

(b) For all cases enforced by a local child support agency pursuant to Title IV–D of the Social Security Act, a local child support agency shall take one of the following actions as specified in subsections (c) through (e), as appropriate to the case.

(c) Prior to case closure, a local child support agency shall prepare and file a full satisfaction of judgment in the following circumstances:

(1) In those cases where the local child support agency recorded a certified copy of the judgment or order for support, an abstract of support judgment, or an Abstract of Support Judgment CA 8580 (7/1/03) only when all of the support arrears have been paid in full and all of the children subject to the support order have emancipated as specified in Section 110248.

(2) In any other situation where the local child support agency determines it would be appropriate to record a full satisfaction of judgment.

(d) Upon request of a representative of a title and/or escrow company or the obligor or the custodial party, the local child support agency shall prepare a matured installment satisfaction of judgment for signature by a representative of the local child support agency only when all of the support arrears have been paid in full and some or all of the children subject to the support order have not reached the age of emancipation as specified in Section 110248.

(e) The local child support agency shall prepare a substitution of payee in the following circumstances:

(1) The non–public assistance custodial party has requested that the local child support agency close the case, the custodial party has given permission to the local child support agency to disclose a mailing address to the obligor for payments, and unassigned current support and/or unassigned arrears are due to the custodial party. The local child support agency shall specify on a notice regarding payment of support, that payments for current support and unassigned arrears shall be paid to the custodial party and, if any assigned arrears remain unpaid and due to the county, that payments for assigned arrears shall be paid to the local child support agency. The assigned arrears portion of the case shall remain open until such time as the case qualifies for case closure as specified in Chapter 8.

(2) The local child support agency has determined all of the support arrears for which the local child support agency provided enforcement services have been paid in full, and the custodial party alleges that other support arrears are still due the custodial party and the custodial party has given permission to the local child support agency to disclose a mailing address to the obligor for payments.

(3) The local child support agency has transferred its case to another local child support agency in California for Title IV–D services. In this situation, the transferring local child support agency shall complete and file a notice regarding payment of support and specify that payments for current support and arrearages shall be paid to the address of the local child support agency to which the case was transferred. A notice regarding payment of support shall be completed and filed with the court prior to case closure by the transferring county.

(4) In any other situation where the local child support agency determines it would be appropriate to record a substitution of payee.

NOTE: Authority cited: Sections 17306 and 17310, Family Code. Reference: Sections 724.010, 724.030, 724.040, 724.060 and 724.250, Code of Civil Procedure; Sections 4201 and 4204, Family Code; and 45 Code of Federal Regulations, Section 302.70.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).

§ 116134. Releasing Real Property Liens.

A local child support agency shall release real property liens by preparing and providing to the obligor the Release of Judgment Lien, Form CA 8581 (New July 1, 2003), to be recorded by the obligor with the county recorder, or a local child support agency shall release real property liens by recording the Release of Judgment Lien with the county recorder. A local child support agency shall process the release of real property liens in the following situations:

(a) When a written demand is received from a property owner for a recordable document releasing the lien and proof is provided by the property owner to the satisfaction of the local child support agency that the property upon which the lien has been created is owned by a person who is not the obligor but has the same or similar name as the obligor. Within 15 days of receipt of such written demand and proof, a local child support agency shall record a Release of Judgment Lien indicating a general release of lien.

(b) When a court order has been received by a local child support agency to prepare and deliver to the property owner a recordable document releasing the lien, unless such order has been appealed and the ac-

tion ordered is stayed pending the appeal. A Release of Judgment Lien indicating a general release of lien shall be prepared and delivered within the time frames established by the court order or within15 days from receipt of the court order, whichever is less.

(c) When a local child support agency has determined all of the support arrears for which the local child support agency provided enforcement services have been paid in full. Within five days of making the determination that the case should be closed because all support has been paid, a local child support agency shall prepare and deliver to the obligor a Release of Judgment Lien indicating a general release of lien.

(d) When a request is received from a representative of a title and/or escrow company or the obligor and the support arrears for which the local child support agency provided enforcement services have been paid in full. Within five days of the request, a local child support agency shall prepare and deliver to the requesting party, a Release of Judgment Lien indicating a specific property release of lien.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 697.410, Code of Civil Procedure.

HISTORY

1. New section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).

Article 4. Credit Reporting

§ 116140. Reporting Child Support Obligations and Arrearages—General Requirements and Timeframes.

(a) Each local child support agency shall compile and maintain a list of obligors who have child support obligations ordered by a court, administrative agency or quasi–judicial entity authorized to establish, enforce, or modify support orders or to determine paternity, whether or not arrearages are owed, and submit a certified list of those obligors to the Department, as specified in subsection (d), for subsequent consolidation and submission to credit reporting agencies.

(b) The list required by subsection (a) shall include, at a minimum, the following data for each obligor. The obligor's:

(1) Name(s).

(2) Date of birth.

(3) Last known address.

(4) Social Security Number.

(5) Current and past due child support debt amounts.

(c) Prior to including an obligor's arrearage data on the list required by subsection (a), the local child support agency shall do all of the following:

(1) Prepare a copy of the obligor's payment record, or obtain an affidavit signed by the obligee attesting to the amount of support owed.

(2) Ensure the case record contains a copy of the order, including any modifications to the order.

(3) Verify the accuracy of the obligor's name(s) and Social Security Number.

(4) Ensure the case record contains the obligee's last known address, if the obligee is not receiving public assistance.

(5) Verify the arrears by determining whether there are any former CalWORKs or foster care assigned arrears in addition to the arrears that accrued when the obligee was not receiving public assistance.

(d) When the list required by subsection (a) is transmitted to the Department, the director of the local child support agency, or his/her designee, shall complete and sign a "Child Support Credit Reporting/State Licensing Match Transmittal," CS 914, dated (8/02), incorporated by reference herein, to transmit the list and to certify the following under penalty of perjury:

(1) The requirements of subsection (c)(1) through (5) have been met.

(2) The compilation of the list was supervised by the director of the local child support agency or his/her designee.

(e) Prior to the initial reporting of a child support obligation or an arrearage to the Department, the local child support agency shall provide written notification to an obligor at his/her last known address of the proposed release of information to credit reporting agencies, and the detail of that information, and allow the obligor 30 days from the date of the written notice to contest the accuracy of the information, or to pay the arrearage, if any.

(1) If an obligor fails to contest the accuracy of the information in writing within 30 days of the date of the notice, the local child support agency shall include the obligor on the list submitted to the Department pursuant to subsection (f).

(2) If an obligor provides timely written notification that he/she wishes to contest the accuracy of the information, that notification shall be deemed a request for complaint resolution and the local child support agency shall delay submission of the obligor's information until the requirements of Article 2 of Chapter 10, commencing with Section 120100, have been completed.

(3) If an obligor pays an amount to satisfy an arrearage in whole or in part within the 30–day timeframe, the local child support agency shall revise the arrearage balance for that obligor prior to submitting the information specified in subsection (b)(5) to the Department pursuant to subsection (f).

(f) Each local child support agency shall submit to the Department monthly updates to the list specified in subsection (a) through electronic media. The updates shall be submitted by the 12th day of the month following the month being reported. The monthly update shall contain all new obligors for whom the local child support agency has completed the requirements specified in subsection (e), and either:

(1) All obligors submitted the previous month, including those obligors with changes to the information previously reported, such as, a change in case status or arrearage balance, or

(2) Only those obligors with changes to the information previously reported.

(g) In cases in which a child support collection is made by one county for a case being enforced in another county, the county enforcing the case shall submit the information specified in subsection (b) to the Department.

(h) In interstate cases when California is the responding state, the local child support agency shall submit the information specified in subsection (b) to the Department.

(i) In cases in which the accuracy of information is contested by the obligor and the credit reporting agency is conducting a reinvestigation, the local child support agency shall research the accuracy of information and respond to the credit reporting agency within 30 days from the date the local child support agency receives notice that the accuracy of the information is being contested.

(1) In the event the information being contested is correct, the local child support agency shall respond to the credit reporting agency within 30 days by fax or in writing, notifying the credit reporting agency that the information is correct.

(2) In the event the information being contested is incorrect, the local child support agency shall correct the information by submitting a Universal Data Form to the credit reporting agency by fax or in writing on the same working day that the information is verified as being incorrect. The local child support agency shall also submit information updating the case to the Department as specified in subsection (f).

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4701, Family Code; 15 United States Code, Section 1681i; 42 United States Code, Section 666(a)(7); and 45 Code of Federal Regulations, Section 302.70(a)(7).

HISTORY

1. New article 4 (section 116140) and section filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency language will be repealed by operation of law on the following day.
2. New article 4 (section 116140) and section refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of section by operation of Government Code section 11346.1 (Register 2004, No. 19).
4. New article 4 (section 116140) and new section filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).

Chapter 7. Interstate Cases

Article 1. Definitions

§ 117016. Central Registry.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4924, Family Code; and 45 Code of Federal Regulations, Section 303.7.

HISTORY

1. New chapter 7 (articles 1–6, sections 117016–117600), article 1 (sections 117016–117094) and section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New chapter 7 (articles 1–6, sections 117016–117600), article 1 (sections 117016–117094) and section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).
4. Change without regulatory effect renumbering former section 117016 to new section 110132 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 117019. Continuing, Exclusive Jurisdiction.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4909, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order, including amendment of section, transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).
4. Change without regulatory effect renumbering former section 117019 to new section 110192 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 117021. Controlling Order.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4911, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).
4. Change without regulatory effect renumbering former section 117021 to new section 110196 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 117025. Direct Income Withholding.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4940, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).
4. Change without regulatory effect renumbering former section 117025 to new section 110268 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 117030. Foreign Order.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4951, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).
4. Change without regulatory effect renumbering former section 117030 to new section 110375 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 117036. Home State.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4901, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).
4. Change without regulatory effect renumbering former section 117036 to new section 110422 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 117042. Income Withholding Order.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 4901 and 5208, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Repealer filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 4–21–2003 or emergency repealer will be repealed by operation of law on the following day.
4. New section filed 10–28–2002; operative 10–28–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 44).

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5. Repealer of former section 117042 refiled 4–3–2003 as an emergency; operative 4–21–2003 (Register 2003, No. 14). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency repealer will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 4–3–2003 order filed 10–17–2003; Certificate of Compliance withdrawn 12–1–2003 and repealer of action by operation of Government Code section 11346.1 (Register 2004, No. 19).
7. Repealer filed 5–4–2004; operative 5–4–2004 by operation of Government Code section 11343.4 (Register 2004, No. 19).

§ 117047. Initiating State.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4901, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).
4. Change without regulatory effect renumbering former section 117047 to new section 110446 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 117049. Initiating Tribunal.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4901, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).
4. Change without regulatory effect renumbering former section 117049 to new section 110450 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 117052. Issuing State.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4901, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).
4. Change without regulatory effect renumbering former section 117052 to new section 110474 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 117054. Issuing Tribunal.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4901, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).
4. Change without regulatory effect renumbering former section 117054 to section 110478 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 117064. Long Arm Jurisdiction.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4905, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).
4. Change without regulatory effect renumbering former section 117064 to new section 110518 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 117074. Personal Jurisdiction.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4905, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).
4. Change without regulatory effect renumbering former section 117074 to new section 110654 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 117080. Register.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4950, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).
4. Change without regulatory effect renumbering former section 117080 to new section 110710 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 117083. Responding State.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4901, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).
4. Change without regulatory effect renumbering former section 117083 to new section 110730 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 117085. Responding Tribunal.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4901, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Com-

pliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).
4. Change without regulatory effect renumbering former section 117085 to new section 110734 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 117089. State.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4901, Family Code; and 42 United States Code, Section 619(4)(A–B).

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order, including amendment of subsection (a) and NOTE, transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).
4. Change without regulatory effect renumbering former section 117089 to new section 110762 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 117091. Subject Matter Jurisdiction.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4905, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).
4. Change without regulatory effect renumbering former section 117091 to new section 110794 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 117094. Tribunal.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 4901 and 4902, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).
4. Change without regulatory effect renumbering former section 117094 to new section 110858 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

Article 2. Long Arm Jurisdiction

§ 117200. General Requirements.

(a) A local child support agency shall establish parentage and/or a child support order by exercising long arm jurisdiction if paternity and support have not been established, but the facts of the case indicate that the requirements for asserting personal jurisdiction over the alleged parent in another state are met.

(b) In cases in which paternity must be established and an alleged father does not reside in California, a local child support agency shall obtain sufficient information to determine whether any basis exists upon which California can assert long arm jurisdiction over the alleged father.

(c) In making the determination described in subsections (a) and (b), the local child support agency shall review the case for any of the following factors which may give a tribunal personal jurisdiction:

(1) The noncustodial parent is personally served with notice within California.

(2) The noncustodial parent submits to the jurisdiction of California by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction.

(3) The noncustodial parent resided with the child in California.

(4) The noncustodial parent formerly resided in California and provided prenatal expenses or support for the child.

(5) The child resides in California as a result of the acts or directives of the noncustodial parent.

(6) The noncustodial parent engaged in sexual intercourse in California and the child may have been conceived by that act of intercourse.

(7) The noncustodial parent has signed a voluntary declaration of paternity in California.

(8) Any other basis consistent with the constitutions of California and the United States for the exercise of personal jurisdiction.

(d) A local child support agency seeking to establish an order through the exercise of long arm jurisdiction shall be subject to the same due process requirements as cases where the noncustodial parent resides in California.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4905, Family Code.

HISTORY

1. New article 2 (section 117200) and section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New article 2 (section 117200) and section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order, including amendment of subsection (a), transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).

Article 3. General Provisions

§ 117300. Continuing, Exclusive Jurisdiction to Modify a Support Order.

(a) Except as specified in subsection (b), only the issuing state shall have continuing, exclusive jurisdiction to modify a support order.

(b) In determining whether it believes California or another state has continuing, exclusive jurisdiction to modify a support order, the local child support agency shall apply the following rules:

(1) Only one state shall have continuing, exclusive jurisdiction to modify a support order at any given time.

(2) If the child, the obligee who is an individual, or the obligor resides in the state that issued the controlling order, that state has continuing, exclusive jurisdiction to modify.

(3) Once a state has continuing, exclusive jurisdiction, it shall retain jurisdiction as long as any one of the parties or children in the case still resides in the state, unless the parties file a written consent in the issuing tribunal allowing another state, with personal jurisdiction over any of the parties, to assume continuing, exclusive jurisdiction to modify the order.

(c) When an obligee or obligor requests review and modification of a child support order, the local child support agency shall determine whether California has continuing, exclusive jurisdiction to modify the order, or whether the local child support agency must forward the request to another state for modification.

(d) If there is a state that has continuing, exclusive jurisdiction, a local child support agency shall forward the request for modification to the state that has continuing, exclusive jurisdiction.

(e) If a local child support agency determines that no state has continuing, exclusive jurisdiction, a local child support agency shall forward the request for review and modification to the state of the non–requesting parent.

(f) A California tribunal may review and modify the order when it does not have continuing, exclusive jurisdiction, if both parents file a written consent form with the tribunal in the state that issued the order and the California court has personal jurisdiction over at least one of the parents.

(g) In formulating its determination of whether California or another state has continuing, exclusive jurisdiction to modify the order, the local child support agency should make diligent efforts to determine whether there is any other entity having jurisdiction.

(h) If California was the issuing state, and Californias loses jurisdiction, a local child support agency may not bring a request to modify the support order once another tribunal has properly assumed continuing, exclusive jurisdiction and modified the order.

(i) If a tribunal of another state has assumed continuing, exclusive jurisdiction, and has modified the order, the local child support agency loses its authority to enforce the order prospectively, but retains jurisdiction to enforce the order as to amounts that accrued prior to the modification and as to nonmodifiable aspects of the order.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code Reference: Sections 4909, 4959, 4960 and 4962, Family Code.

HISTORY

1. New article 3 (sections 117300–117303) and section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New article 3 (sections 117300–117303) and section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order, including amendment of section, transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).

§ 117301. Duration of Support.

The duration of a support order is determined by the issuing state's law which defines the age of majority and/or emancipation. The duration of a support order may be modified only to the degree it could be modified under the law of the issuing state.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4953, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order, including amendment of section, transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).

§ 117302. Interest.

(a) If a tribunal in the state of California issued the controlling order, a local child support agency shall:

(1) Calculate and document how much interest has accrued on arrears.

(2) Request a responding state to collect accrued interest.

(3) Update the balances on arrears and interest and provide those balances to a responding state for collection upon the request of a responding state.

(b) If a tribunal in a state other than California issued the controlling order, a local child support agency shall:

(1) Collect interest based upon calculations and documentation provided by the issuing state, provided both of the following criteria are met:

(A) The issuing state's law authorizes the accrual and collection of interest on support arrears.

(B) The issuing state requests collection of arrears and interest.

(2) Request a certified statement of the balances on arrears and interest from the issuing state when needed to proceed with further action on a case.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 4909 and 17524, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).

§ 117303. Reconciling Multiple Orders/Determination of Controlling Order.

(a) A local child support agency shall identify and obtain copies of all child support orders in each case.

(b) If there are multiple orders, all orders issued by a tribunal having subject matter jurisdiction to hear and issue the order, and personal jurisdiction over the parties, shall be enforceable until a determination of the controlling order is made. Any payments collected under one support order for a particular period shall be credited against amounts accruing for the same period under a support order issued by another state. Once the tribunal having personal jurisdiction over the parties determines the controlling order, arrearages on all other orders shall stop accruing, and only the controlling order may be enforced prospectively.

(c) In developing a recommendation for the tribunal, a local child support agency shall use the following rules for determining the controlling order:

(1) If there is only one order, that is the controlling order.

(2) If two or more tribunals have issued child support orders but only one of the tribunals has continuing, exclusive jurisdiction, the order of that tribunal controls and shall be so recognized.

(3) If two or more tribunals have issued child support orders and more than one of the tribunals has continuing, exclusive jurisdiction, an order issued by a tribunal in the current home state of the child controls and shall be so recognized.

(4) If two or more tribunals have issued child support orders and more than one has continuing, exclusive jurisdiction, but none of the orders has been issued in the current home state of the child, the order most recently issued in a state having continuing, exclusive jurisdiction controls and shall be so recognized.

(5) If none of the tribunals has continuing, exclusive jurisdiction, a tribunal of this state may issue the controlling child support order if the tribunal has jurisdiction over the parties.

(d) If a local child support agency discovers a new order after the determination of controlling order has been made, a local child support agency shall review the case to determine if the newly discovered order affects the controlling order determination or the arrears determination.

(1) If the newly discovered order affects the controlling order determination or the arrears determination, and California has personal jurisdiction over the parties, a local child support agency shall petition the tribunal for a new determination of controlling order, based upon the newly discovered order.

(2) If California does not have personal jurisdiction over the parties, a local child support agency shall petition the tribunal with personal jurisdiction over the parties to make a new determination of controlling order, based upon the newly discovered order.

(e) Within 30 days of issuance of an order determining the controlling order, a local child support agency shall send a certified copy of the order to each tribunal that issued or registered an earlier order of child support.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4911, Family Code; and 28 United States Code, Section 1738B.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order, including amendment of subsections (b), (c)(4) and (d)(1), transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).

Article 4. California As Initiating State

§ 117400. General Requirements and Timeframes.

(a) A local child support agency shall establish paternity, and establish and enforce support orders when the noncustodial parent resides in a state other than California and the custodial party resides in California, or when neither parent resides in California and one parent applies directly for Title IV–D services in California.

(b) A local child support agency shall:

(1) Use long arm jurisdiction when establishing judgments of parentage and child support orders in accordance with Article 2, Long Arm Jurisdiction (commencing with Section 117200 of this Chapter).

(2) Initiate an interstate case action if utilization of long arm jurisdiction is not possible.

(c) A local child support agency shall identify the case status as public assistance, non–public assistance, never assistance, or foster care, at the time of initiating the interstate referral and notify the responding jurisdiction of the case status. A local child support agency shall subsequently notify the responding jurisdiction at any time the case status changes.

(d) Whenever a local child support agency initiates an interstate case it shall:

(1) Refer the case to the responding state's central registry for action within 20 days of determining that an interstate action is necessary. As part of the referral, a local child support agency shall submit the appropriate Child Support Enforcement Transmittal forms specified in Section 117407 and any additional necessary documentation sufficient to allow the responding state to act on the case.

(2) Provide requested information to the responding state or notify the responding state when the information will be provided, within 30 days of receiving a request for additional information from the responding state.

(3) Notify the responding state of any new information regarding the case within 10 business days of receiving such information.

(4) Provide a payment record showing a month–by–month breakdown of amounts owed and paid at the time the case is referred.

(e) A local child support agency shall determine the amount of arrears owed under multiple orders. When computing arrears under multiple orders, a local child support agency shall:

(1) Begin with the order with the earliest date.

(2) Continue with the order with the highest child support amount in effect in any given month.

(3) Include accrual of interest on arrears to the extent the issuing state charges interest.

(4) Credit payments collected under one support order for a particular period against amounts accruing for the same period under different support orders.

(f) A local child support agency shall request responding states to enforce valid orders for accrued arrears, even though the family is no longer on public assistance and no ongoing support order is sought.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: 45 Code of Federal Regulations, Section 303.7.

HISTORY

1. New article 4 (sections 117400–117407) and section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New article 4 (sections 117400–117407) and section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order, including amendment of subsections (b)(1), (c) and (e)(3), transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).

§ 117401. Paternity.

When California is the initiating state and paternity must be established, a local child support agency shall:

(a) Pay for the costs of genetic testing in actions to establish paternity.

(b) Allow a responding state to select the laboratory, schedule the genetic tests and cooperate in obtaining samples from the parent and child.

(c) Request that the responding jurisdiction attempt to secure a judgment against the noncustodial parent to recover a local child support agency's costs for the genetic testing.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 4905 and 5604, Family Code; and 45 Code of Federal Regulations Section 303.7.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order, including amendment of subsection (b), transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).

§ 117402. Disclosure of Information on Uniform Interstate Family Support Act Pleadings.

(a) A local child support agency shall advise the custodial party of the requirement to disclose his/her residence address on pleadings in Uniform Interstate Family Support Act cases and the right of the custodial party to obtain a nondisclosure order to keep the address off the documents, if disclosure may put at risk the health, safety or liberty of a party.

(b) A local child support agency shall instruct the custodial party to notify the local child support agency of any previously obtained protective or restraining orders or whether a good cause exception has been granted pursuant to Section 14008.6 or 11477.04, Welfare and Institutions Code. If such orders have been obtained or good cause has been granted, the local child support agency shall inform the custodial party that upon request, it shall seek an order of nondisclosure on behalf of the custodial party.

(c) A local child support agency shall use the term "nondisclosure" on the Uniform Interstate Family Support Act documents upon a finding by a tribunal that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information. The local child support agency shall attach all orders for nondisclosure of information to the appropriate action form when transmitting a case to another state.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 4926, 4977 and 4978, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 3–19–2002 order, including amendment of subsection (b), transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).

§ 117403. Modification of Child Support Orders.

(a) Within 20 days of receiving information necessary to conduct a review, and determining that a request for review and adjustment of a support order should be sent to the state that has continuing, exclusive jurisdiction to modify the order, a local child support agency shall request that the other state conduct a review and adjustment of a child support order.

(b) If there is no state with continuing, exclusive jurisdiction to modify a support order, a local child support agency shall transmit a request for registration and modification by the obligee or obligor to the state where the non–requesting party resides.

(c) A local child support agency shall proceed with a modification of a child support order even if a party leaves the state while the proceedings are pending, if a motion to modify support has been filed and served, unless both parties agree to terminate the modification proceeding.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 4910 and 4960–4962, Family Code; and 45 Code of Federal Regulations, Sections 303.7 and 303.8.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).

§ 117404. Modification of Spousal Support Orders.

Only a tribunal in a state which issued a spousal support order shall have continuing, exclusive jurisdiction to modify the spousal support order. A local child support agency may serve as an initiating state to request the issuing state to enforce or modify a spousal support order.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 4909 and 4910, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).

§ 117405. Direct Income Withholding.

(a) Except as specified in (b) below, a local child support agency shall send the Federal Form (OMB NO.: 0970–0154) "Order/Notice to Withhold Income for Child Support," directly to an employer, as defined in Section 110250, in another state when the obligor resides outside of California, the employer is known, and a local child support agency has not initiated an interstate case.

(b) A local child support agency shall use an interstate process rather than direct income withholding when it has reason to believe:

(1) The obligor has more than one family and another state has sent a income withholding order to the obligor's employer.

(2) The obligor's arrears are in dispute.

(3) There are multiple support orders and the controlling order and arrears determinations have not been made.

(4) The obligor has declared bankruptcy.

(5) The obligor has a history of short term employment or job hopping.

(6) The obligor is unemployed.

(7) The obligor is incarcerated.

(8) The obligor is self–employed.

(c) When there is an active interstate case in progress and the local child support agency decides to file a direct income withholding order, the local child support agency shall notify the responding state to close its case.

(d) When a local child support agency has a direct income withholding order in place, and wishes to initiate an interstate case, a local child support agency shall advise the responding state of the direct income withholding order and coordinate withdrawal of the direct income withholding order with service of the responding state's withholding order.

(e) If the obligor contests the direct income withholding order, a local child support agency shall:

(1) Contact the Title IV–D agency in the responding state to request its assistance in appearing on behalf of the local child support agency.

(2) Comply with a responding state's request to withdraw the direct income withholding order and file an interstate action to authorize the responding state to appear on behalf of the initiating state, if the responding state determines such action is necessary.

(f) A local child support agency shall contact the employer if an employer does not comply with the direct income withholding order and attempt to resolve the issue informally. If that effort fails, a local child support agency shall initiate an interstate case requesting the responding state to register and serve an income withholding order.

(g) A local child support agency shall open a case and assist an obligor in registering a support order or direct income withholding order that is being contested if an obligor requests Title IV–D services, which includes the right to initiate a contest.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 4940–4942 and 4944–4946, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).

§ 117406. Administrative Enforcement Without Registration.

A local child support agency shall not request a responding state to register an order if it can be enforced in the responding state through administrative remedies without registration.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 4915, 4940 and 4946, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).

§ 117407. Interstate Forms.

A local child support agency shall complete and send to the responding state the appropriate parts of the Federal Form (OMB NO.: 0970–0085) as specified below when requesting the responding state to:

(a) Establish paternity and child support.

(1) Child Support Enforcement Transmittal #1.

(2) Uniform Support Petition.

(3) Affidavit in Support of Establishing Paternity.

(4) General Testimony.

(b) Establish child support.

(1) Child Support Enforcement Transmittal #1.

(2) Uniform Support Petition.

(3) General Testimony.

(c) Modify an existing responding state order.
(1) Child Support Enforcement Transmittal #1.
(2) General Testimony.
(d) Modify an existing order that the responding state did not issue.
(1) Child Support Enforcement Transmittal #1.
(2) Uniform Support Petition
(3) General Testimony.
(4) Registration Statement.
(e) Enforce an existing responding state order. Child Support Enforcement Transmittal #1.
(f) Enforce an existing order that the responding state did not issue.
(1) Child Support Enforcement Transmittal #1.
(2) Registration Statement.
(g) Respond to case inquiry or update on a previously referred case. Child Support Enforcement Transmittal #2.
(h) Provide limited services. Child Support Enforcement Transmittal #3.
(i) Provide Quick Locate. Locate Data Sheet.
(j) Acknowledge Receipt of Interstate Requests. Page 3 of the Child Support Enforcement Transmittal #1.

NOTE: Authority cited; Sections 17306, 17310 and 17312, Family Code. Reference: Section 4925, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).

Article 5. California As Responding State

§ 117500. General Requirements/Time Frames.

(a) A local child support agency shall provide Title IV–D interstate cases the same services required in Title IV–D intrastate cases including all of the following:
(1) Establishing paternity and attempting to obtain a judgment for genetic testing costs, should paternity be established.
(2) Establishing a child support order.
(3) Processing and enforcing orders using the same remedies applied in Title IV–D intrastate cases.
(4) Collecting and monitoring support payments and forwarding payments to the location specified by the initiating state's Title IV–D agency.
(5) Reviewing and modifying child support orders.
(b) Within 75 days of receipt of an interstate case from the California Central Registry, the local child support agency shall do all of the following:
(1) Provide locate services, if the request is for location services or the case does not include adequate information to locate the obligor and/or the obligor's assets.
(2) Request additional or corrected documentation from the initiating state's Title IV–D agency if the local child support agency is unable to proceed with the case because the provided documentation is insufficient.
(3) Process the case to the extent possible pending receipt of the necessary documentation from the initiating state, if the documentation initially received by a local child support agency is insufficient and cannot be remedied without assistance of the initiating state.
(c) A local child support agency shall provide notice of any hearings that might result in establishment or modification of an order to the initiating state's Title IV–D agency within 14 business days after notice of the time, date and location of a hearing.
(d) If the local child support agency receives a substantive written communication from the party against whom the order is being enforced, or that party's attorney, the local child support agency shall send a copy of that communication to the initiating state within 10 business days of receipt of the communication.
(e) A local child support agency shall notify an initiating state within 10 business days of receipt of new information by submitting an updated Federal Form OMB No.: 0970–0085.
(f) A local child support agency shall, to the extent allowed under Section 17402, Family Code, comply with another state's request to establish an order for a prior time period and collect assigned arrears only.
(g) A local child support agency shall enforce an issuing state's valid orders for accrued arrears, even in cases in which the obligee and child are no longer on public assistance.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 4907, 4919–4921 and 17402, Family Code; and 45 Code of Federal Regulations, Sections 303.2 and 303.7.

HISTORY

1. New article 5 (sections 117500–117504) and section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New article 5 (sections 117500–117504) and section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order, including amendment of subsections (d)–(e) and (g), transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).

§ 117501. Paternity.

(a) When California is the responding jurisdiction and genetic tests are requested to establish paternity, a local child support agency shall:
(1) Select the laboratory and provide the laboratory with sufficient information to schedule the genetic testing for the mother, child, and alleged father.
(2) Notify the initiating state of the genetic testing costs and request payment.
(3) Attempt to secure a judgment against the noncustodial parent to recover the costs of genetic testing.
(4) Reimburse the initiating state for costs of genetic testing, if the costs are recovered by a local child support agency.
(b) A local child support agency shall give full faith and credit to another state's judgment of parentage and shall not order genetic tests unless the judgment is vacated in the issuing state.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4905 and 5604, Family Code; and 45 Code of Federal Regulations, Section 303.7.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).

§ 117502. Transferring Interstate Cases.

(a) When California is the responding state, a local child support agency shall, within 10 business days of locating a noncustodial parent's residence in a different county within California, take all of the following actions using the Federal Forms specified in Section 117407 and California Rules of Court, Rule 1298.60:
(1) Transfer the case in accordance with Family Code, Section 5001.
(2) Notify the initiating state of the transfer and provide the initiating state with the new location information.
(3) Notify the California Central Registry of the case transfer.

(b) Within 10 business days of locating a noncustodial parent in a different state, a local child support agency shall take all of the following actions using the Federal Forms specified in Section 117407:

(1) Notify the initiating state of the noncustodial parent's new location.

(2) Return the form and documentation, including the new location, to the initiating state, or, if directed by the initiating state, forward the case documentation to the central registry in the state where the noncustodial parent has been located.

(3) Notify the California Central Registry of the case transfer.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 5001, Family Code; and 45 Code of Federal Regulations, Section 303.7.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order, including amendment of subsection (a), transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).

§ 117503. Registration of Foreign Orders.

(a) A local child support agency shall request an initiating state to provide certified copies of all orders to be registered, when the initiating state requests registration of a foreign order for enforcement and/or modification.

(b) A local child support agency shall register a support order or income withholding order if the following documents are received from the appropriate tribunal of the state requesting registration of the order:

(1) A letter of transmittal requesting registration and enforcement.

(2) One certified copy of all orders to be registered, including any modification of an order.

(3) A signed and notarized statement, sworn under penalty of perjury by the party seeking registration, or a certified statement by the custodian of the records, showing the amount of any arrearage.

(4) The name and address of the obligee and the agency to which support payments are to be remitted.

(5) The name of the obligor and if known, the obligor's address, social security number, employer and employer's address, other sources of income and a description and location of the obligor's property in California that is not exempt from execution.

(c) An order registered for enforcement shall be enforceable on the date of registration. The local child support agency shall enforce the order as of the effective date of registration.

(d) If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the local child support agency shall register the order.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 4946 and 4950–4954, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order, including amendment of subsection (b)(3), transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).

§ 117504. Modification of Child Support Orders.

(a) If a California tribunal modifies an order consistent with the provisions of Section 117300, a local child support agency shall send certified copies of the modified order to all tribunals in which orders have been entered or registered, and to all Title IV–D agencies and parties to the case.

(b) If an obligor or obligee requests a review and adjustment of an order and California is not the state with continuing, exclusive jurisdiction, a local child support agency shall transmit the request to the state with continuing, exclusive jurisdiction.

(c) If no state has continuing, exclusive jurisdiction, a local child support agency shall transmit the request to the state where the non–requesting party resides for registration and modification.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 4909, 4910, 4960, 4962 and 4963, Family Code.

HISTORY

1. New section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order, including amendment of NOTE, transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).

Article 6. Limited Interstate Services

§ 117600. Local Child Support Agency Responsibilities.

A local child support agency that receives a request for limited interstate services shall not open a Title IV–D case, but shall provide only the limited services requested on Federal Form OMB NO.: 0970–0085. Limited interstate services include, but are not limited to, the following:

(a) Providing copies of documentation such as certified copies of orders, payment records, financial statements, or any other documentation described under "other" on Federal Form OMB NO: 0970–0085.

(b) Providing assistance with service of process by providing information about agencies or process servers in the state.

(c) Providing assistance with genetic testing by providing information such as names of genetic testing laboratories and protocols to be followed.

(d) Obtaining answers for completing interrogatories.

(e) Providing assistance with long–distance testimony by telephone and, when available, video conferencing.

(f) Obtaining financial data/proof of respondent's income.

(g) Obtaining party's signature.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 4930–4932, Family Code.

HISTORY

1. New article 6 (section 117600) and section filed 9–24–2001 as an emergency; operative 9–24–2001 (Register 2001, No. 39). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 3–25–2002 or emergency language will be repealed by operation of law on the following day.
2. New article 6 (section 117600) and section refiled 3–19–2002 as an emergency; operative 3–26–2002 (Register 2002, No. 12). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–19–2002 order, including amendment of first paragraph and subsection (a), transmitted to OAL 9–13–2002 and filed 10–28–2002 (Register 2002, No. 44).

Chapter 8. Case Closure

Article 1. Definitions

§ 118020. Case Closure.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17531, Family Code; and 45 Code of Federal Regulations, Section 303.11.

HISTORY

1. New chapter 8 (articles 1–2, sections 118020–118203), article 1 (section 118020) and section filed 3–25–2002 as an emergency; operative 3–25–2002 (Register 2002, No. 13). A Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
2. New chapter 8 (articles 1–2, sections 118020–118203), article 1 (section 118020) and section refiled 8–22–2002 as an emergency; operative 8–22–2002 (Register 2002, No. 34). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 2–18–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8–22–2002 order transmitted to OAL 2–13–2003 and filed 3–24–2003 (Register 2003, No. 13).
4. Change without regulatory effect renumbering former section 118020 to new section 110120 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

Article 2. Case Closure

§ 118203. Requirements for Case Closure.

(a) Each local child support agency shall establish and use a system for closing Title IV–D cases and shall close any case when it meets at least one of the following case closure criteria:

(1) There is no longer a current support order and no arrearage payments were made in the preceding twelve consecutive months, and assigned and unassigned arrears total less than $500 or arrears are unenforceable under state law. Situations to which this criterion apply include, but are not limited to, the following:

(A) Reconciliation of the family.

(B) The death of a child for whom support is owed.

(C) Paternity is established and is the only Title IV–D service needed because both parents in a Title IV–A grant are living together.

(D) A child for whom support is sought dies before paternity can be established.

(E) Cases with medical support orders with specific dollar amounts and arrears which accrue under such orders.

(F) Emancipation of the youngest child.

(2) The noncustodial parent or alleged father is deceased and no further action can be taken, including a levy against the estate. The local child support agency shall:

(A) Verify the death of the noncustodial parent or alleged father.

(B) Document that attempts to identify assets in the estate that could be levied against were unsuccessful. The closure notice required by subsection (b) below, shall include information about possible Social Security Administration death benefits pursuant to subsection (b)(3)(C).

(3) Paternity cannot be established because of one of the following:

(A) The youngest child requiring paternity establishment has reached 18 years of age and there is no pending judicial action to establish the child's paternity.

(B) A genetic test, or court, or administrative process has excluded the alleged father and the custodial party has attested under penalty of perjury that he or she does not know the identity of other individuals who could be the father.

(C) A local child support agency, in conjunction with the county welfare department, determines that the child's best interest will not be served by establishing paternity in a case involving incest or forcible rape, or a case where legal proceedings for adoption are pending.

(D) Either the first or the last name of the biological father is unknown and cannot be identified after diligent efforts, including at least one face–to–face interview by the local child support agency with the custodial party. For the purpose of this subparagraph "diligent efforts" means acting on leads the custodial party may provide that could help identify and locate the biological father, such as a last known address or employer. The interview required in this subparagraph may be conducted by telephone when the custodial party would have to travel at least 60 miles, or take time from work to be interviewed face–to–face, or is disabled, or lacks transportation.

(E) The child was conceived as the result of artificial insemination of a woman other than the donor's wife, and the husband of the woman, if any, did not consent to the insemination.

(4) The noncustodial parent's or alleged father's residence, employment address, earnings and assets are unknown and the local child support agency has made diligent but unsuccessful quarterly attempts using all locate sources, pursuant to Section 113100, to locate the noncustodial parent or alleged father and his/her earnings or assets. Such efforts shall be made over a three–year period when there is sufficient information to initiate an automated locate effort, or over a one–year period when there is insufficient information to initiate an automated locate effort.

(A) For the purpose of this subparagraph, "sufficient information" means the first and last name and date of birth, and/or Social Security Number of the noncustodial parent or alleged father.

(B) For the purpose of this subparagraph, "diligent" means a local child support agency has done both of the following:

1. For the one–year period, contacted the custodial party at least once to ask for information which might serve to further identify and locate the noncustodial parent or alleged father.

2. Made every reasonable effort to obtain the missing or incomplete Social Security Number of the noncustodial parent or alleged father using all appropriate sources including, but not limited to, the California Parent Locator Service, the Department of Motor Vehicles, the Social Security Administration, and the Federal Parent Locator Service.

(5) The local child support agency determines that the noncustodial parent has no earnings or assets which could be levied or attached for support and the noncustodial parent cannot pay support for the duration of the child's minority for any of the following reasons:

(A) The noncustodial parent is institutionalized in a psychiatric facility.

(B) The noncustodial parent is incarcerated with no chance of parole.

(C) The noncustodial parent has a medically verified total and permanent disability with no evidence of support potential.

(D) The noncustodial parent receives SSI/SSP and has no other attachable income or assets.

(6) The noncustodial parent lives in a foreign country.

(A) The noncustodial parent resides in a country other than Mexico and all of the following apply:

1. The noncustodial parent is a citizen of that country.

2. The noncustodial parent does not work for the United States government or a company which has its headquarters or offices in the United States.

3. The noncustodial parent has no reachable domestic earnings or assets.

4. California does not have reciprocity with the country.

(B) The noncustodial parent resides in Mexico and in addition to the criteria specified in (A)1. through 3. above, the case is a California–initiated request for reciprocal child support services with Mexico, and at least one of the following apply:

1. Paternity is at issue and either California does not have the basis to establish paternity using long–arm jurisdiction, specified in Section 4905, Family Code, or use of long–arm jurisdiction to establish paternity is appropriate and has been attempted but the local child support agency is unable to establish paternity.

2. The noncustodial parent's location is not known.

3. The noncustodial parent is not known to be working, or the local child support agency is unable to determine the noncustodial parent's employer.

4. The local child support agency cannot be provided with a photograph of the noncustodial parent.

5. The only issue in the case is retroactive support for past public assistance paid.

(7) A local child support agency has provided non–Title IV–D location–only services, pursuant to Section 113200, as requested by the cus-

todial party, legal guardian, attorney, or agent, of a child who is not receiving public assistance, whether or not such services were successful.

(8) A recipient of services who is currently not receiving public assistance under Title IV–A, requests closure of a case and there is no assignment for medical support and no assigned arrears.

(9) The court determines it would be inappropriate to establish a child support order for a case in which retroactive child support for past assistance paid is the only issue.

(10) There has been a finding of good cause, as specified in Section 11477.04, or Section 14008.6, Welfare and Institutions Code, or other exceptions to cooperation with the local child support agency, and the State or county welfare department has determined that support enforcement may not proceed without risk of harm to the child or caretaker.

(11) Except as specified in subparagraph (C), a local child support agency is unable to contact a non–Title IV–A recipient of services over a 60–day period after having made at least one attempt to contact the recipient of services by telephone, sending a letter by first–class mail to the last known address of the recipient of services, and after using the Department of Motor Vehicles and other locate sources to locate the recipient of services.

(A) The 60–day period shall commence with the date that the contact letter is mailed to the last known address of the recipient of services.

(B) A local child support agency shall not mail the case closure letter required by subsection (b), below, until 60 days have elapsed from the date the contact letter was mailed to the recipient of services; and until all responses from queried locate sources have been received indicating no new information is available that would allow the case to remain open.

(C) When the recipient of services is a custodial party and a local child support agency has a child support collection that needs to be distributed to that custodial party, the local child support agency shall attempt to locate the custodial party for six months, pursuant to Section 113100(g), before the case qualifies for closure under this criterion.

(D) A Medically Needy Only recipient's case shall not be closed under this closure criterion. A local child support agency shall contact the county welfare department for assistance in locating the recipient of services.

(12) A non–Title IV–A recipient of services, except a Medically Needy Only recipient, is uncooperative and an action by the recipient of services is essential for the next step in providing Title IV–D services. A local child support agency shall explain the incident of the noncooperation to the recipient of services in writing and warn the recipient of services that further noncooperation may result in case closure, and shall document circumstances of noncooperation in the case record. Noncooperation shall include any action or inaction by the recipient of services which is essential for the next step in providing Title IV–D services such as:

(A) Continuing to accept direct child support payments.

(B) Failing to attend hearings.

(C) Refusing to sign forms.

(D) Refusing to report private attorney actions.

(13) A recipient of services has moved to another county or state and both, subparagraphs (A) and (B) apply:

(A) The recipient of services applied for services in the other county or state.

(B) The local child support agency documents in the case record that contact was made with the other county or state to confirm that the recipient of services has applied for services in the other county or state; and, in the case of an inter–county transfer, to confirm that the case, with its support order and arrears, has been transferred.

(C) Notwithstanding subparagraphs (A) and (B), above, if there are assigned arrears, a case shall not be closed under this closure criterion until one of the following occurs:

1. The assigned arrears are collected.

2. The case is closed under another closure criterion.

3. Responsibility for collecting the assigned arrears is transferred to another county or state.

(14) A local child support agency documents failure by an initiating state in an interstate case to take an action which is essential for the next step in providing Title IV–D services.

(A) If California is the responding state and a local child support agency needs additional information to process an interstate case, that local child support agency shall send to the initiating state a notice requesting the initiating state to provide the information within 30 days, or provide a response within 30 days as to when the information shall be provided.

1. If the information or notice of when information will be provided is not received by the local child support agency after 30 days from mailing the request specified in subparagraph (A) above, the local child support agency shall notify the initiating state that the case will be closed in 60 days.

2. The local child support agency shall also send a copy of the closure notification to the initiating state's central registry with a notation requesting any assistance the central registry can provide the initiating state's Title IV–D agency in obtaining information necessary to keep the case open.

(B) When the initiating state requests case closure and does not provide the case closure criterion, or provides a case closure criterion that is inconsistent with subparagraphs (1) through (13) and (15), the local child support agency shall send the initiating state a written notice of intent to close the case in 60 days, unless the initiating state provides a case closure criterion that is consistent with subparagraphs (1) through (13) and (15).

(C) The case shall be closed after 60 days have elapsed from the date of mailing the closure notice specified in subparagraph (A)1. and (B) above, if the initiating state does not provide the information needed to process the interstate case or a response stating when the information will be provided.

(15) A Title IV–D case is erroneously opened and both of the following apply:

(A) No Title IV–D services can be appropriately provided for the case.

(B) There is clear and complete documentation in the case file explaining why the case was erroneously opened and why no Title IV–D services can be provided.

(b) A local child support agency shall notify the recipient of services in writing when closing a case pursuant to subsections (a)(1) through (6) and (11) through (14), above, of the local child support agency's intent to close the case.

(1) Written notice shall not be provided for cases closed pursuant to subsections (a)(7), (8), (9), (10) or (15), above.

(2) Written notice of case closure shall be mailed to the last known address of a recipient of services 60 days prior to closing a case. When the only address for a recipient of services is a Title IV–A agency, a local child support agency shall send the closure notice to that Title IV–A agency's address.

(3) A notice of intent to close the case shall, at a minimum, include the following information:

(A) The reason the case is being closed.

(B) The circumstances under which the case will be reopened, such as receipt of new information regarding the location of the noncustodial parent's or alleged father's residence or earnings or assets, as specified in subsection (c), below.

(C) Whom to contact to apply for possible Social Security death benefits for cases closed for the reasons specified in subsection (a)(2), above.

(4) When a case qualifies for closure pursuant to subsection (a)(1) because the parents have reconciled and the reconciliation makes the family ineligible for public assistance, and there are no arrears assigned to the state that are eligible for enforcement, a local child support agency shall mail a case closure notice to both the custodial party and noncustodial parent. The notice shall state both of the following:

(A) The case is being closed because the family has reconciled.

(B) Title IV–D service shall be terminated.

(5) A case shall remain open if:

(A) A recipient of services responds to a closure notice with information that could lead to the establishment of paternity or a support order or enforcement of an order; or

(B) Contact is re–established with a recipient of services within the timeframes specified in subsection (a)(11).

(c) The local child support agency shall reopen a case that has been closed when a non–Title IV–A former recipient of services requests that the case be reopened and can provide information that could lead to the establishment of paternity or a support order or enforcement of an order. When a non–Title IV–A former recipient of services requests resumption of Title IV–D services, the recipient of services shall complete a new application package pursuant to Section 112100(b)(2).

(d) Closed Title IV–D case records shall be retained for a minimum of four years and four months from the date of closure, unless otherwise specified, and summary criminal history information shall be disposed of, in accordance with record disposal requirements specified in Section 111460.

(e) When a local child support agency closes a case, it shall evaluate the case to determine whether it is appropriate to release, remove, rescind or terminate establishment and enforcement actions initiated against the obligor.

(1) A local child support agency shall release, remove, rescind or terminate all establishment and enforcement actions, when an obligor never had or no longer has a current child support or a medical support obligation, and no arrearage exists.

(2) For purposes of subparagraph (1) above, release, removal, rescission or termination of establishment and enforcement actions includes, but is not limited to, the following:

(A) Dismissal of Summons and Complaints without prejudice. A Summons and Complaint may be dismissed only when a judgment for support has not been entered; or, when a judgment for support has been entered and the court has entered an order to set aside or vacate the judgment.

(B) Termination of income withholding orders and National Medical Support Notices. When the criteria set forth in subparagraph (1) above, are satisfied, such orders shall be terminated under any of the following circumstances, unless the court order specifies alternative termination provisions:

1. The child reaches the age of 18, or, if the child continues to be a full–time high school student, is unmarried, and is not self–supporting, then at the time the child completes the 12th grade or reaches the age of 19, whichever occurs first.

2. The child for whom child support is ordered has legally emancipated.

3. The child for whom child support is ordered has died.

(C) Removal of an obligor's name and social security number from all State and federal intercepts.

(D) Release of personal and real property liens.

(3) If a local child support agency closes a case when the obligor continues to have a current child support or medical support obligation or unassigned arrears exist pursuant to subparagraph (8) of subsection (a), the local child support agency shall release, remove, rescind or terminate establishment or enforcement actions as appropriate. For purposes of this subparagraph, release, removal, rescission or termination of establishment and enforcement actions includes, but is not limited to, the following:

(A) Removal of obligor's name and Social Security Number from all State and federal intercepts.

(B) Substitution of payee on income withholding and medical support order. The local child support agency shall substitute the obligee as the payee on any income withholding and medical support orders.

(C) Substitution of payee on real property lien. The local child support agency shall file and record a substitution of payee in each county in which a judgment or abstract of judgment has previously been recorded.

(D) Substitution of payee on notice of child support lien or lien against personal property lien. The local child support agency shall file a substitution of payee with the Secretary of State for any notice of child support lien previously filed pursuant to Section 17523, Family Code.

(4) When a recipient of services has a family violence indicator, a local child support agency shall obtain from a recipient of services a substitute address, when necessary for releasing, removing, rescinding or terminating establishment and enforcement actions and shall not disclose the whereabouts of the recipient of services and the affected child(ren) unless ordered to do so by a court of competent jurisdiction after proper notice and hearing.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 4506.2, 5237, 7613, 17502, 17523 and 17531, Family Code; and 45 Code of Federal Regulations, Sections 302.35, 303.3 and 303.11.

HISTORY

1. New article 2 (section 118203) and section filed 3–25–2002 as an emergency; operative 3–25–2002 (Register 2002, No. 13). A Certificate of Compliance must be transmitted to OAL by 9–23–2002 or emergency language will be repealed by operation of law on the following day.
2. New article 2 (section 118203) and section refiled 8–22–2002 as an emergency; operative 8–22–2002 (Register 2002, No. 34). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 2–18–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8–22–2002 order transmitted to OAL 2–13–2003 and filed 3–24–2003 (Register 2003, No. 13).

Chapter 9. Collection and Distribution of Child Support

Article 1. Definitions

§ 119003. Assets.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 4053, 4058, 4059 and 17550, Family Code.

HISTORY

1. New article 1 (sections 119003–119076) and new section filed 4–2–2004; operative 4–2–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 14).
2. Change without regulatory effect renumbering former section 119003 to new section 110068 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 119015. Compromise of Assigned Arrearages — Family Reunification.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17550, Family Code.

HISTORY

1. New article 1 (sections 119015–119076) and section filed 11–25–2002 as an emergency; operative 11–25–2002 (Register 2002, No. 48). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 5–27–2003 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2003, No. 20).
3. New article 1 (sections 119015–119076) and section refiled 5–12–2003 as an emergency; operative 5–24–2003 (Register 2003, No. 20). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 11–20–2003 or emergency language will be repealed by operation of law on the following day.
4. Repealed by operation of Government Code section 11346.1(g) (Register 2004, No. 14).
5. New section filed 4–2–2004; operative 4–2–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 14).
6. Change without regulatory effect renumbering former section 119015 to new section 110184 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 119019. County Welfare Worker.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17550, Family Code.

HISTORY

1. New section filed 11–25–2002 as an emergency; operative 11–25–2002 (Register 2002, No. 48). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 5–27–2003 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2003, No. 20).

3. New section refiled 5–12–2003 as an emergency; operative 5–24–2003 (Register 2003, No. 20). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 11–20–2003 or emergency language will be repealed by operation of law on the following day.
4. Repealed by operation of Government Code section 11346.1(g) (Register 2004, No. 14).
5. New section filed 4–2–2004; operative 4–2–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 14).
6. Change without regulatory effect renumbering former section 119019 to new section 110208 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 119045. Guardian.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17550, Family Code.

HISTORY

1. New section filed 11–25–2002 as an emergency; operative 11–25–2002 (Register 2002, No. 48). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 5–27–2003 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2003, No. 20).
3. New section refiled 5–12–2003 as an emergency; operative 5–24–2003 (Register 2003, No. 20). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 11–20–2003 or emergency language will be repealed by operation of law on the following day.
4. Repealed by operation of Government Code section 11346.1(g) (Register 2004, No. 14).
5. New section filed 4–2–2004; operative 4–2–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 14).
6. Change without regulatory effect renumbering former section 119045 to new section 110402 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 119069. Placement.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 361(e) and 11400(k), Welfare and Institutions Code.

HISTORY

1. New section filed 11–25–2002 as an emergency; operative 11–25–2002 (Register 2002, No. 48). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 5–27–2003 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2003, No. 20).
3. New section refiled 5–12–2003 as an emergency; operative 5–24–2003 (Register 2003, No. 20). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 11–20–2003 or emergency language will be repealed by operation of law on the following day.
4. Repealed by operation of Government Code section 11346.1(g) (Register 2004, No. 14).
5. New section filed 4–2–2004; operative 4–2–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 14).
6. Change without regulatory effect renumbering former section 119069 to section 110658 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 119076. Relative Caregiver.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17550, Family Code; and Section 11362(c), Welfare and Institutions Code.

HISTORY

1. New section filed 11–25–2002 as an emergency; operative 11–25–2002 (Register 2002, No. 48). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 5–27–2003 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2003, No. 20).
3. New section refiled 5–12–2003 as an emergency; operative 5–24–2003 (Register 2003, No. 20). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 11–20–2003 or emergency language will be repealed by operation of law on the following day.
4. Repealed by operation of Government Code section 11346.1(g) (Register 2004, No. 14).
5. New section filed 4–2–2004; operative 4–2–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 14).
6. Change without regulatory effect renumbering former section 119076 to new section 110718 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

Article 5. General Requirements

§ 119184. Monthly Statement of Collections and Distribution and Important Information Sheet.

(a) Each local child support agency shall issue a "Monthly Statement of Collections and Distribution", CS 916, dated (03/02), and "Notice of Important Information", CS 917, dated (03/02), each incorporated by reference herein, to each custodial party who is a recipient of child support services. The statement shall include, but not be limited to, the information required by Title IV–D of the Social Security Act, federal regulation, and the First Amended Permanent Injunction and Judgment, filed with the United States District Court, Eastern District of California, in the case of Barnes v. Anderson, Case No. CIV–S–90–0579.

(b) The statement specified in (a), above, shall be sent to all custodial parties within 45 days from the end of the statement period when there is either a collection or distribution of support during the period covered by the statement.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17306, 17401.5, 17504, 17800 and 17801, Family Code; 42 United States Code, Section 654; 45 Code of Federal Regulations, Section 302.54; and Barnes v. Anderson et al., First Amended Permanent Injunction and Judgment, No. CIV–S–90–0579, filed December 14, 1998 (United States District Court for the Eastern District of California).

HISTORY

1. New chapter 9, article 4 (section 119184) and section filed 5–29–2002 as an emergency; operative 7–1–2002 (Register 2002, No. 22). Pursuant to Family Code section 17306, a Certificate of Compliance must be transmitted to OAL by 12–30–2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5–29–2002 order, including renumbering and amendment of former article 4 heading to new article 5 heading and amendment of NOTE, transmitted to OAL 10–17–2002 and filed 12–3–2002 (Register 2002, No. 49).

Article 6. Compromise of Assigned Arrearages — Family Reunification

§ 119191. Compromise of Assigned Arrearages — Family Reunification.

(a) The local child support agency shall provide a Compromise Application Packet to a person on the day it is requested in person, or mail the Compromise Application Packet within 5 business days of receipt of a telephone or written request, or whenever the local child support agency becomes aware that an obligor has been reunited with his/her child(ren). The Compromise Application Packet shall consist of:

(1) Application for Compromise — Family Reunification, form DCSS 0027, dated (09/03), incorporated by reference herein,

(2) Relevant court form(s) providing information on the applicant's income, expenses, and assets, and

(3) Application for Compromise — Family Reunification Information Sheet, form DCSS 0026, dated (09/03), incorporated by reference herein.

(b) When the local child support agency receives a Compromise Application Packet, the local child support agency shall review the Compromise Application Packet for completeness. For purposes of completeness, applicants are not required to submit the Compromise of Arrearages Information Sheet — Family Reunification, form DCSS 0026. The local child support agency shall verify that the applicant returned the required documents and that the documents are complete, or that the local child support agency otherwise has the information required available.

(1) Within 10 business days of the date of receipt of an incomplete Compromise Application Packet, the local child support agency shall mail to the applicant a Notice of Incomplete Application for Compromise — Family Reunification, form DCSS 0031, dated (09/03), incorporated by reference herein.

(2) Within 10 business days of the date of receipt of the completed Compromise Application Packet, the local child support agency shall take the following actions:

(A) Make a determination of an applicant's eligibility for temporary suspension of enforcement and collection actions pending a final determination of eligibility for compromise as specified in Subsection (d).

(B) If the applicant meets the requirements specified in Subsection (d) below, the local child support agency shall send the applicant a Notice of Temporary Suspension Of Child Support Collection and Enforcement — Family Reunification, form DCSS 0030, dated (09/03), incorporated by reference herein. The applicant shall be advised that his/her application for compromise is complete and that he/she does qualify for temporary suspension of collection and enforcement actions on the assigned arrearages which accrued during the time that his/her child was in out–of–home care, as defined in Subsection (d)(2) below.

(C) If the applicant does not meet the requirements specified in Subsection (d) below, the local child support agency shall send the applicant a Notice of Denial of Application for Compromise — Family Reunification, form DCSS 0029, dated (09/03), incorporated by reference herein.

(c) Within two business days of the completion of the actions specified in Subparagraph (b)(2)(B) above, the local child support agency shall take administrative action to suspend enforcement of the obligation, and collection activities on the assigned arrearages that accrued during the time the child was in placement until a final determination is made on the application.

(d) The applicant shall qualify for temporary suspension of enforcement and collection actions, pending a final determination of eligibility for compromise, if all of the following requirements are satisfied:

(1) The applicant has provided a completed Compromise Application Packet.

(2) Either of the following criteria are met:

(A) The child has been adjudged a dependent of the court under Section 300 of the Welfare and Institutions Code and Aid to Families with Dependent Children–Foster Care or KinGAP was expended while the child was a dependent of the court, and the child is residing with and has been reunified with the applicant pursuant to a court order; or

(B) The child received public assistance while living with a guardian or relative caregiver and the child has been returned to the custody of and is residing with the applicant, provided that the applicant for whom the debt compromise is being considered was the applicant with whom the child resided prior to the child's placement with the guardian or relative caregiver.

(3) The applicant for whom the debt compromise is being considered has a gross income less than 300 percent of the federal poverty level guidelines for that family size.

(e) Within 20 business days from determining the applicant's qualification for a temporary suspension as specified in Subsection (b)(2)(B), the local child support agency shall take the following actions to determine the applicant's eligibility for compromise:

(1) Verify that one of the following conditions are satisfied:

(A) The child has been adjudged a dependent of the court under Section 300 of the Welfare and Institutions Code and Aid to Families with Dependent Children–Foster Care or KinGAP was expended while the child was a dependent of the court, and the child is residing with and has been reunified with the applicant pursuant to a court order; or

(B) The child received public assistance while living with a guardian or relative caregiver and the child has been returned to the custody of and is residing with the applicant, provided that the applicant for whom the debt compromise is being considered was the applicant with whom the child resided prior to the child's placement with the guardian or relative caregiver.

(2) Verify the following information from local child support or county welfare department case information or the Application for Compromise — Family Reunification, form DCSS 0027, dated (09/03), and the relevant court form(s) providing information on the applicant's income, expenses, and assets:

(A) Local child support agency's case identification number.

(B) Address of the applicant.

(C) Social Security number of the applicant, if any.

(D) Address of the child(ren) for whom arrearages are being considered for compromise.

(E) Social Security number(s) of the child(ren) for whom arrearages are being considered for compromise.

(F) Applicant's relationship to the child(ren).

(G) Time period when the child(ren) was out of the home.

(H) Child(ren) received assistance payments during placement as required by Subparagraph (e)(1).

(I) Child(ren) is currently living with the applicant.

(J) Child(ren) lived with the applicant prior to the child(ren)'s placement in out–of–home care.

(K) Applicant's gross monthly income as defined by Family Code Section 4058.

(L) Applicant's net monthly income as defined by Family Code Section 4059.

(M) All reported extraordinary expenses, such as day care, medical and dental expenses.

(N) Justification for other uses of income as outlined in a reunification plan.

(3) Determine if the applicant has a net disposable income less than 250 percent of the current federal poverty level guidelines.

(A) The 250 percent shall be applied to the family group, which includes the applicant and any other child(ren) the applicant is legally obligated to support and who resides with the applicant.

(B) The 250 percent shall be calculated by comparing the applicant's net disposable income to 250 percent of the federal poverty level for that family size. Income will be computed based on the current month's income at the time of application. Net disposable income shall be computed in accordance with Family Code Section 4059 and by deducting other expenses as justified in Subparagraph (2)(M) and (N) above, from the applicant's gross income.

(4) It shall be presumed that compromise is necessary for a child's support, if the applicant meets the requirements in Subparagraphs (1) and (3) above. The presumption may be rebutted by a finding that the applicant owns assets as verified in Subparagraph (e)(2) valued in excess of $10,000 dollars, excluding the applicant's primary residence and one vehicle used for transportation, that could be applied to satisfy the arrearages being considered for this compromise.

(5) After the local child support agency has determined that the applicant has met the requirements in Subparagraphs (e)(1) above, the local child support agency shall confer with the county welfare worker assigned to develop and/or assess compliance with the reunification plan prior to making a final determination on the ability of the applicant to support the child. In the event that the county welfare worker provides written justification within the time frame specified in Subsection (e) that supports a finding that a compromise is not in the best interest of the child, the local child support agency shall deny the request for compromise.

(f) Once the local child support agency has completed the verification of all required elements of eligibility for compromise and determined that the applicant does not meet the requirements specified in Subparagraphs (e)(1), (3) or (4) above, or if the county welfare worker determines a compromise is not in the best interest of the child as specified in Subparagraph (e)(5) the local child support agency shall take the following actions:

(1) Within 10 business days of the applicant's final determination of ineligibility for compromise, a Notice of Denial of Application for Compromise of Arrearages — Family Reunification, form DCSS 0029, dated (09/03), shall be sent to the applicant.

(2) Recompute the balance owing on arrearages.

(3) Initiate any appropriate enforcement or other actions for the repayment of any remaining arrearage balance.

(g) Once the local child support agency has completed the verification of all required elements of eligibility for compromise and determined that the applicant meets the requirements specified in Subparagraphs (e)(1), (3) and (4) above, the local child support agency shall take the following actions:

(1) Within 10 business days after determining eligibility for compromise, send the applicant a Notice of Eligibility for Compromise of Arrearages — Family Reunification, form DCSS 0028, dated (09/03), incorporated by reference herein. The Notice of Eligibility for Compromise of Arrearages — Family Reunification shall advise the applicant that he/she does qualify for a compromise of 100 percent of the principal and interest on the assigned arrearages that accrued as a result of the placement.

(2) The Notice of Eligibility for Compromise of Arrearages — Family Reunification shall advise the applicant that without a signed stipulation the application for compromise shall be denied. If the applicant refuses to sign the stipulation or fails to return the stipulation within 20 business days, the local child support agency shall:

(A) Send a Notice of Denial of Application for Compromise of Arrearages — Family Reunification, form DCSS 0029, dated (09/03), to the applicant.

(B) Recompute the balance owing on arrearages.

(C) Initiate any necessary court actions and take appropriate enforcement actions for the repayment of any remaining arrearage balance.

(3) Upon receipt of a signed stipulation, the local child support agency shall take the following actions:

(A) Within 10 business days, file the stipulation to implement the compromise of assigned arrearages.

(B) Within 10 business days initiate any other necessary court actions.

(C) Within 10 business days after the receipt of an approved stipulation and order from the court, make any necessary adjustments to reduce the total arrearages based on the compromise amount.

(D) Initiate the appropriate enforcement action(s) and set a monthly payment amount for the repayment of any remaining arrearage balance when appropriate.

(h) An obligor parent shall not be approved for compromise more than three times in 36 consecutive months, except for those instances where the child is adjudged a dependent of the court under Section 300 of the Welfare and Institutions Code.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. References: Sections 708.420 and 708.440(a), Code of Civil Procedure; Sections 4053, 4058, 4059, 4060, 17402, 17406(j) and (k), 17520(g)(2) and 17550, Family Code; Sections 11200, 11268(a), 11360, 11400, 11401 and 16507.2, Welfare and Institutions Code; and 42 United States Code, Section 9902(2).

HISTORY

1. New article 6 (section 119191) and section filed 11–25–2002 as an emergency; operative 11–25–2002 (Register 2002, No. 48). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 5–27–2003 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2003, No. 20).
3. New article 6 (section 119191) and section refiled 5–12–2003 as an emergency; operative 5–24–2003 (Register 2003, No. 20). Pursuant to Family Code section 17306(e), a Certificate of Compliance must be transmitted to OAL by 11–20–2003 or emergency language will be repealed by operation of law on the following day.
4. Repealed by operation of Government Code section 11346.1(g) (Register 2004, No. 14).
5. New article 6 (section 119191) and section filed 4–2–2004; operative 4–2–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 14).

Chapter 10. Complaint Resolution

Article 1. Definitions

§ 120001. Administrative Law Judge.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

HISTORY

1. New chapter 10 (articles 1–3, sections 120001–120222), article 1 (sections 120001–120005) and section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New chapter 10 (articles 1–3, sections 120001–120222), article 1 (sections 120001–120005) and section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 120001 to new section 110028 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 120002. Authorized Representative.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 120002 to new section 110092 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 120003. Complaint Receipt Date.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17800 and 17802, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of first paragraph and subsection (a)(1), transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 120003 to new section 110164 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 120004. Proposed Decision.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 120004 to new section 110678 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

§ 120005. State Hearing Office.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17801, 17802, 17803 and 17804, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).
4. Change without regulatory effect renumbering former section 120005 to new section 110782 filed 3–24–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 12).

Article 2. Local Complaint Resolution Process

§ 120100. General Provisions.

(a) Each local child support agency shall:

(1) Adopt and maintain the complaint resolution process specified in this Article.

(2) Not discourage a complainant from filing a complaint or requesting a state hearing.

(3) Not refuse to assist a complainant in requesting a state hearing.

(4) Track and report complaints in the Department's complaint resolution tracking system.

(b) This Article shall:

(1) Be interpreted in a manner that complies with Chapter 1, Program Administration, Article 5, Records Management regulations.

(2) Be interpreted in a manner that protects a complainant's right to complaint resolution.

(3) Not be interpreted in a manner that alters other statutory or regulatory time frames or requirements for taking other child support actions.

(c) If the last date for the performance of any act required within a time frame specified by this Article or the provisions of Chapter 5 of Division 17 of the Family Code (commencing with Section 17800) is not a business day, then such period shall be extended to the next business day.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17800, 17801, 17802 and 17804, Family Code.

HISTORY

1. New article 2 (sections 120100–120108) and section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New article 2 (sections 120100–120108) and section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including new subsection (a)(4), transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120101. Right to Complaint Resolution.

(a) A complainant shall have the right to make a request for complaint resolution subject to the requirements of this Article. The subject of a complaint may pertain to any local child support agency or Franchise Tax Board child support action or inaction, except the following:

(1) Complaints arising from a child support matter which must, by law, be addressed by motion, order to show cause, or appeal, in a court of law, unless an administrative review is provided for by statute.

(2) A review of any of the following:

(A) A court order for child support or child support arrears.

(B) A court order or equivalent determination of paternity.

(C) A court order for spousal support.

(3) Child custody determinations.

(4) Child visitation determinations.

(b) All requests for complaint resolution shall:

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(1) Be made within 90 days after a complainant knew, or should have known of the complained of child support action or inaction. A complainant shall be presumed to have known of a complained of action or inaction under the following circumstances:

(A) Five (5) business days after the postmark date of the written notice regarding an action or inaction which is the basis of a complaint.

(B) In the absence of any evidence to the contrary, the date a complainant alleges knowledge for the basis of a complaint, or the date a complainant notified a local child support agency of the subject of the complaint.

(2) Be directed to a local child support agency.

(A) Each local child support agency shall encourage, but not require, a complainant to make a written complaint on the "Request for Complaint Resolution," LCR001, dated (12/01), incorporated by reference herein.

(B) Each local child support agency shall document a complainant's oral complaint on the "Request for Complaint Resolution," LCR001, dated (12/01), and mail a copy of the completed LCR001 to the complainant no later than five (5) business days after receiving an oral complaint. The local child support agency shall mail to the complainant the forms required by Section 120102.

(3) Include the following information:

(A) A complainant's name and address, and if available, phone number, FAX number, and e-mail address.

(B) The local child support agency case number.

(C) A description of the local child support agency or Franchise Tax Board action or inaction a complainant requests to have resolved.

(c) A request for complaint resolution shall not be deemed invalid for failure to include the information required by subsection (b)(3)(B).

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17800 and 17802, Family Code.

HISTORY

1. New section filed 6-26-2001 as an emergency; operative 7-1-2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12-28-2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12-18-2001 as an emergency; operative 12-30-2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6-28-2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-18-2001 order, including amendment of section, transmitted to OAL 6-11-2002 and filed 7-24-2002 (Register 2002, No. 30).

§ 120102. Written Complaint Acknowledgement.

Within five (5) business days after the complaint receipt date, a local child support agency shall mail a "Request for Complaint Resolution Acknowledgement," LCR002, dated (10/01), incorporated by reference herein, and a "Request for State Hearing," SH001, dated (10/01), incorporated by reference herein to the complainant. The written complaint acknowledgement shall include an explanation of both of the following:

(a) The complaint resolution process and time frames specified in this Article.

(b) The state hearing process and time frames specified in Article 3.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17800, Family Code.

HISTORY

1. New section filed 6-26-2001 as an emergency; operative 7-1-2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12-28-2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12-18-2001 as an emergency; operative 12-30-2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6-28-2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-18-2001 order, including amendment of section, transmitted to OAL 6-11-2002 and filed 7-24-2002 (Register 2002, No. 30).

§ 120103. Complaint Investigation.

(a) Each local child support agency shall assign a complaint investigator to investigate the complaint. A complaint investigator shall not be the individual whose action or inaction is the subject of a complaint, or an Ombudsperson.

(b) The complaint investigator shall within five (5) business days of the complaint receipt date, determine the jurisdictional authority of the local child support agency to resolve the complaint. The local child support agency that took the action, failed to take action, or requested the Franchise Tax Board to take action, shall have jurisdictional authority.

(1) If the subject of the complaint is outside the jurisdiction of the child support program or is one of the issues enumerated in Section 120101(a), the local child support agency shall notify the complainant by mailing the notice required by Section 120105 immediately, but in no event more than 30 days after the complaint receipt date. To the extent possible, the local child support agency shall refer the complainant to the appropriate agency for complaint resolution.

(2) If the proper jurisdiction for the complaint is a local child support agency in another county, the local child support agency shall transfer the complaint pursuant to Section 120104, and notify the complainant by mailing the notice required by Section 120104 within five (5) business days of transferring the complaint.

(3) If the subject of the complaint is within the jurisdiction of the child support program and the local child support agency, but the local child support agency believes the complaint is not eligible for complaint resolution because it was filed untimely pursuant to Section 120101(b), the local child support agency shall notify the complainant by mailing the notice required by Section 120105 within 30 days of the complaint receipt date. This subparagraph shall not be interpreted to prohibit the local child support agency from trying to assist the complainant to resolve the complaint or other outstanding issues that are not subject to the local complaint resolution process.

(c) The complaint investigator shall discuss and clarify the basis of the complaint with the complainant. The complaint investigator shall attempt to resolve the complaint to the satisfaction of the complainant.

(1) If the nature of the complaint is substantively modified based on the complaint investigator's discussion with the complainant, the local child support agency shall document the new complaint information on a "Complaint Amendment," LCR003, dated (10/01), incorporated by reference herein, and mail the "Complaint Amendment," LCR003, to the complainant no later than five (5) business days after the complaint investigator's discussion with the complainant. The requirements of Section 120105 shall continue to apply based on the original complaint receipt date.

(2) If the complaint is resolved to the satisfaction of the complainant, the local child support agency shall mail a written notice of complaint resolution pursuant to Section 120105.

(3) If the complaint is not resolved to the satisfaction of the complainant after the discussion between the complaint investigator and the complainant, and further investigation is necessary, the complaint investigator shall do the following, as appropriate:

(A) Obtain pertinent case information regarding the subject of the complaint from the case worker(s) responsible for the action or inaction complained of, the Franchise Tax Board, and/or other agency.

(B) Obtain additional information or documents from any appropriate source necessary for prompt resolution of the complaint.

(C) Determine the local child support agency and/or Franchise Tax Board action required to resolve the complaint, if any. The local child support agency and/or Franchise Tax Board shall complete the required action within statutory time frames. In the absence of statutory time frames, the local child support agency and/or Franchise Tax Board shall complete the required action within 30 days after the complaint receipt date.

(D) Determine the action required by a third party or other agency, if any, to resolve the complaint.

1. The local child support agency shall inform such third party or other agency in writing of the action required to resolve the complaint,

and facilitate the resolution of the complaint with such third party or other agency until the requested action is completed.

2. The local child support agency shall inform the complainant pursuant to Section 120105 of the action(s) required by the complainant to resolve the complaint.

(E) Prepare the written notice of complaint resolution pursuant to Section 120105.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17800 and 17802, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of section, transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120104. Complaint Transfer.

(a) Upon the local child support agency's determination that proper jurisdiction for the complaint is a local child support agency in another county, the local child support agency that received the complaint shall do both of the following:

(1) Complete a "Complaint Transfer," LCR004, dated (10/01), incorporated by reference herein, and email or fax the "Complaint Transfer," LCR004, and all other relevant complaint documents, forms, or other written or oral information received from the complainant, to the appropriate local child support agency within five (5) business days after the complaint receipt date.

(2) Notify the complainant of the complaint transfer by mailing the complainant a copy of the completed LCR004 within five (5) business days after transferring the complaint to another county.

(b) A local child support agency that receives a "Complaint Transfer," LCR004, as specified in (a), shall complete the requirements of Sections 120101 through 120105(a) within 30 days after receiving the "Complaint Transfer," LCR004.

(c) If the transferring and receiving local child support agencies cannot agree to the proper jurisdiction for the complaint, the receiving local child support agency shall contact the Department by telephone, and follow up by fax, for jurisdictional determination within five (5) business days of receipt of the "Complaint Transfer," LCR004. The Department shall make the jurisdictional determination within five (5) business days after contact. If the Department determines the jurisdiction for the complaint belongs to the transferring county, the complaint receipt date shall continue to be the date the local child support agency initially received the complaint pursuant to Section 120003. If the Department determines the jurisdiction for the complaint belongs to the receiving county, the complaint receipt date shall be the date the receiving county received the LCR004 from the transferring county, as specified in Section 120003.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17800, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of section, transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120105. Notice of Complaint Resolution/Complaint Extension.

(a) The local child support agency shall mail a "Notice of Complaint Resolution," LCR006, dated (10/01), incorporated by reference herein, and a "Request for State Hearing," SH001, dated (10/01), to the complainant no later than 30 days after the complaint receipt date. The LCR006, shall be signed by the director of the local child support agency, or his/her designee, and shall include a brief description or explanation of all of the following:

(1) The complaint and the complaint receipt date.

(2) The local child support agency's decision regarding the complaint, including the reason the local child support agency believes the complaint is not eligible for complaint resolution, if applicable, or the reason complaint resolution cannot be completed by the local child support agency. Citations to applicable laws, regulations, or Department policy letters shall be referenced in the explanation.

(3) The actions taken or that will be taken by the local child support agency to resolve the complaint.

(4) The complainant's right to file a request for a state hearing, the process and time frames for filing a request for state hearing, and the issues within the jurisdiction of a state hearing, if the complainant is dissatisfied with the resolution of the complaint by the local child support agency.

(b) The director of the local child support agency, or in the director's absence, his or her designee, shall be permitted to grant a one–time extension of the complaint resolution period for a specified complaint up to maximum of 30 days, if the director of the local child support agency, or in the director's absence, his or her designee, determines more time is needed to resolve the complaint. The local child support agency shall exercise due diligence in attempting to resolve all complaints within 30 days of the complaint receipt date, and shall only take an extension under extraordinary circumstances. The local child support agency shall do both of the following for each complaint resolution extension:

(1) Mail a "Notice of Complaint Resolution Extension," LCR005, dated (10/01), incorporated by reference herein, to a complainant and the State Hearing Office no later than 30 days after the complaint receipt date. The LCR005 shall be signed by the director of the local child support agency, or in the director's absence, his or her designee, and shall explain the local child support agency's need to extend the complaint resolution period to resolve the complaint, and the time frames to file a state hearing will be extended based on the date of the local child support agency's written resolution response provided pursuant to subparagraph (2).

(2) Mail a "Notice of Complaint Resolution," LCR006, dated (10/01), to the complainant no later than 60 days from the complaint receipt date.

(c) If the local child support agency is unable to initiate or complete a complaint investigation due to lack of information from the complainant, and the complaint investigator was unable to obtain the required information during discussion with the complainant as specified in Section 120103(c), the local child support agency shall attempt at least one additional verbal contact with the complainant to obtain the required information. If the results of the contact are unsuccessful, the local child support agency shall notify the complainant in writing of the required information, and that failure of the complainant to provide the information will result in the local child support agency closing the complaint. If the local child support agency does not receive the information required to resolve the complaint, the local child support agency shall mail a "Notice of Complaint Resolution," LCR006, dated (10/01), to the complainant no later than 30 days after the complaint receipt date, that explains the reason for closing the complaint.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17800, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of section, transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120106. Complaint Resolution Process Closure.

(a) The local child support agency shall close the complaint after completing the following actions:

(1) Acknowledge the complaint pursuant to Section 120102.

(2) Investigate the complaint as specified in Section 120103.

(3) Issue a notice of complaint resolution pursuant to Section 120105.

(4) Complete the required action to resolve the complaint pursuant to Section 120105.

(b) If the local child support agency transfers the complaint pursuant to Section 120104, and the complaint is not returned to the local child support agency pursuant to Section 120104(c), the local child support agency may close the complaint.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17800 and 17802, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of section, transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120107. Maintenance of Complaint Information.

Each local child support agency shall compile and maintain the following information for each complaint received:

(a) The name, address and telephone number of the complainant and that of the authorized representative, if any, and identification of the complainant as custodial party or noncustodial parent.

(b) The local child support agency case number.

(c) The date the complaint was received, the nature of the complaint, and the date of resolution.

(d) The action required to resolve the complaint, including both of the following:

(1) The unit, local child support agency employee, or other agency or third party, responsible to complete resolution action(s).

(2) The date the resolution action(s) were completed.

(e) The dates the following were mailed to the complainant:

(1) The "Request for Complaint Resolution Acknowledgement," LCR002, dated (10/01).

(2) The "Complaint Amendment," LCR003, dated (10/01), if applicable.

(3) The "Complaint Transfer," LCR004, dated (10/01), if applicable.

(4) The "Notice of Complaint Resolution Extension," LCR005, dated (10/01), if applicable.

(5) The "Notice of Complaint Resolution," LCR006, dated (10/01).

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17800, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of section, transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120108. Complaint Information Reporting.

Each local child support agency shall provide a written report with the following information to the Department within 15 business days after the end of each calendar quarter:

(a) The number and nature of the complaints received.

(b) The number and percentage of complaints closed pursuant to Section 120106 within 30 days of the complaint receipt date.

(c) The number and percentage of complaints closed pursuant to Section 120106(a) within 60 days of the complaint receipt date, if the complaint resolution period was extended pursuant to Section 120105.

(d) The number and percentage of complaints that have not been closed pursuant to Section 120106(a) within 30 days of the complaint receipt date, or within 60 days of the complaint receipt date if the complaint resolution period was extended pursuant to Section 120105.

(e) The number of complaints transferred to other local child support agencies.

(f) The number of referrals to other agencies.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17800 and 17802, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of section, transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

Article 3. State Hearing

§ 120200. General Provisions.

(a) The Department shall be responsible for the administration of the state hearing process.

(b) The local child support agency shall not discourage a complainant from requesting a state hearing, or refuse to assist a complainant with a request for a state hearing.

(c) This Article shall:

(1) Be interpreted in a manner that complies with Chapter 1, Program Administration, Article 5, Records Management regulations.

(2) Be interpreted in a manner that protects the complainant's right to a state hearing.

(3) Apply to child support issues subject to a state hearing specified in Section 120201.

(4) Not be interpreted in a manner that alters other statutory or regulatory time frames or requirements for taking other child support actions.

(d) If the last date for the performance of any act required within a specified period of time by this Article or the provisions of Chapter 5 of Division 17 of the Family Code (commencing with Section 17800) is not a business day, then such period shall be extended to the next business day.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17801 and 17804, Family Code.

HISTORY

1. New article 3 (sections 120200–120222) and section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New article 3 (sections 120200–120222) and section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120201. Right to a State Hearing.

(a) A complainant who is dissatisfied with the resolution of a complaint made with a local child support agency, pursuant to Article 2, shall

have the right to request a state hearing pursuant to the requirements of this Article. The subject of the request for a state hearing shall be limited to any one or more of the following actions or failures to take action by a local child support agency or the Franchise Tax Board:

(1) An application for child support services has been denied or has not been acted upon within the required time frame.

(2) The child support services case has been acted upon in violation of federal or state law, regulation, or Department policy letter, or has not been acted upon within the required time frame, including services for the establishment, modification, and enforcement of child support orders and child support accountings.

(3) Child support collections have not been distributed or have been distributed or disbursed incorrectly, or the amount of child support arrears, as calculated by the local child support agency, is inaccurate.

(A) State hearing jurisdiction shall not extend to arrears issues if there is no dispute as to the accounting of the amount owed, but the complainant is seeking relief from enforcement of the order or judgment, or if the complainant is seeking credit for payments that were made to someone other than the local child support agency.

(B) The complainant shall not be entitled to request a state hearing and a court review at the same time. If the complainant or the other party files for a court determination of arrears either before or after a state hearing is requested, the local child support agency shall notify the State Hearing Office, and any state hearing that has been requested on the same issues shall be dismissed.

(C) The local child support agency shall not be required to give notice to the non–complaining party of a state hearing request that concerns the calculation of the arrears. However, in order to protect the property rights of the parties, the local child support agency shall send the non–complaining party a copy of any hearing decision, in which the calculation of arrears is at issue, and provide notice of the right to have the arrears issue heard in court. The local child support agency shall redact all confidential information, including the complaining party's address, prior to sending the hearing decision to the non–complaining party.

(4) The local child support agency's decision to close a child support case.

(b) The following issues shall not be heard at a state hearing:

(1) Complaints arising from a child support matter which must, by law, be addressed by motion, order to show cause, or appeal, in a court.

(2) A review of any of the following:

(A) A court order for child support or child support arrears.

(B) A court order or equivalent determination of paternity.

(C) A court order for spousal support.

(3) Child custody determinations.

(4) Child visitation determinations.

(5) Complaints of alleged discourteous treatment by a local child support agency employee unless such conduct resulted in one of the actions or inactions enumerated in subsection (a)(1) through (4).

(c) Prior to requesting a hearing, the complainant shall exhaust the local complaint resolution process specified in Article 2, unless a local child support agency has not, within the time frames specified in Section 120105, submitted a written resolution of the complaint. Only a complaint that was raised in the local complaint resolution process can be raised in a state hearing.

(d) All requests for a state hearing shall:

(1) Be made orally or in writing to the State Hearing Office. Complainants shall be encouraged, but not be required, to complete a "Request for State Hearing," SH001, dated (10/01), incorporated by reference herein.

(2) Be made within 90 days after any of the following:

(A) The date the complainant received the local child support agency's "Notice of Complaint Resolution," LCR006, dated (10/01). There shall be a rebuttable presumption that the complainant received a "Notice of Complaint Resolution," LCR006, dated (10/01), five (5) business days after the postmark date of the LCR006.

(B) The date the complainant made the complaint with the local child support agency, if the local child support agency failed to issue a "Notice of Complaint Resolution," LCR006, dated (10/01).

(C) The date the complainant received the "Complaint Transfer," LCR004, dated (10/01), from the local child support agency that transferred the complaint pursuant to Section 120104, if the local child support agency to which the complaint was transferred has not issued a "Notice of Complaint Resolution," LCR006, dated (10/01) within the time frame specified in Section 120105.

(D) The date the complainant received the "Notice of Complaint Resolution Extension," LCR005, dated (10/01) from the local child support agency that took an extension pursuant to Section 120105, if the local child support agency has not issued a "Notice of Complaint Resolution," LCR006, dated (10/01) within 60 days from the complaint receipt date.

(3) Include, at a minimum, the information specified in Section 120101(b)(3). A request for a state hearing shall not be deemed invalid for failure to include the information specified in Section120101(b)(3)(B).

(e) If a local child support agency receives a "Request for State Hearing," SH001, dated (10/01), directly from a complainant, the local child support agency shall fax the SH001 to the State Hearing Office by the close of business of the following business day.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of section, transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120202. Scheduling the State Hearing.

The state hearing shall:

(a) Be set to commence within 30 days after the hearing request is received by the State Hearing Office.

(b) Be held by telephone or in person within the complainant's county of residence, if the complainant resides in California, unless the complainant requests the hearing be held in another California county.

(1) Hearings for complainants residing outside California shall be conducted by telephone unless the complainant voluntarily offers to return to California for the hearing, or authorizes a representative in California to attend the hearing.

(2) Hearings for complainants who are inmates of penal institutions, or residents of other institutions, shall be conducted by telephone unless the complainant authorizes a representative to attend the hearing.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of subsection (b), transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120203. Notice of State Hearing.

The State Hearing Office shall notify all interested parties at least ten (10) days prior to the scheduled hearing, of the date, time, and location of the hearing. The hearing notice shall be mailed to the last known ad-

dress of the complainant. The time frame of the notice shall be permitted to be shortened with the consent of the parties. Any party shall be permitted to waive notice.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120204. Local Child Support Agency Responsibilities.

(a) A local child support agency shall:

(1) Attempt to resolve a complaint to the satisfaction of the complainant during the local complaint resolution process and prior to the state hearing.

(2) Provide the complainant with Department–approved informational materials regarding the state hearing process.

(3) Assist the complainant in requesting a state hearing.

(4) Provide the complainant with relevant information pertaining to the subject of the complaint to help the complainant prepare for the state hearing.

(5) Notify the State Hearing Office of the complainant's need for an interpreter and/or reasonable disability accommodation at the state hearing, if known.

(6) Report to the State Hearing Office, any changes in the complainant's address or other circumstances that might affect the conduct of the state hearing, if known.

(7) Prepare a typewritten position statement that includes all of the following:

(A) A short statement of the facts of the case.

(B) Statutory and regulatory citations, or Department policy, applicable to the local child support agency's and/or Franchise Tax Board's action or inaction.

(C) All relevant information in the local child support agency's possession regarding the subject of the complaint.

(D) Copies of documentary evidence itemized as exhibits, including copies of any forms prepared or submitted as part of the complaint resolution process, and a list of witnesses the local child support agency intends to use during the hearing.

(E) A complete fiscal accounting of the case, if the complaint pertains to child support collections that have not been distributed or have been distributed or disbursed incorrectly, or the amount of child support arrears calculated by the local child support agency.

(8) Mail the position statement specified in subsection (7) above, and pertinent documents to the complainant and the State Hearing Office at least five (5) business days prior to the scheduled hearing.

(9) Assign a local child support agency representative to each child support case for which a state hearing has been scheduled, who shall provide a copy of the position statement at the state hearing, and have the full responsibility to present the case at the state hearing in accordance with the requirements of this Article. The representative shall not be the individual whose action or inaction is the subject of the complaint, or the Ombudsperson.

(10) Provide the State Hearing Office with the name of the local child support agency representative, specified in (9) above.

(11) Review any state hearing request to make a preliminary determination of whether the non–complaining party needs to be notified of the state hearing to protect his or her rights or interests.

(A) If the local child support agency believes the non–complaining party should receive notice and be given the opportunity to appear at the hearing, the local child support agency shall notify the State Hearing Office of its determination and request a subpoena be issued pursuant to Section 120208.

(B) The local child support agency shall notify the State Hearing Office in advance of any case in which the local child support agency knows that the non–complaining party may appear at the hearing.

(C) If the local child support agency is aware of a history of domestic violence or a potential for violent behavior, the local child support agency shall notify the State Hearing Office of that history.

(D) Whenever possible, the State Hearing Office shall arrange to have one of the parties appear by telephone.

(b) The local child support agency representative shall perform the following case presentation activities at the state hearing as necessary:

(1) Orally summarize the written position statement that supports the local child support agency's and/or Franchise Tax Board's action(s) or inaction(s).

(2) Examine local child support agency and/or Franchise Tax Board witness(es).

(3) Cross–examine the complainant or the complainant's authorized representative, and the complainant's witnesses.

(4) Respond to any questions from the complainant or authorized representative, or Administrative Law Judge concerning the case.

(5) Make available at the hearing, the local child support agency case record documents that are not confidential, or for which disclosure is authorized under Section 111440, and are relevant to the complaint.

(6) Make binding agreements and stipulations on behalf of the local child support agency during the hearing.

(c) If the hearing is to be held in a county other than the county responsible for the case, the responsible local child support agency shall ensure a copy of the position statement specified in subsection (a)(7) is available at the other county's office at least two (2) business days before the hearing, and shall choose one of the following actions:

(1) Send a local child support agency representative to the county in which the hearing is held to ensure the requirements specified in subsection (b) have been met.

(2) Have a local child support agency representative appear by telephone during the hearing. A local child support agency representative who appears by telephone has the same responsibilities as a local child support agency representative who appears in person, including making binding agreements and stipulations on behalf of the local child support agency.

(3) Send the original case record information relative to the complaint, or a certified copy thereof pursuant to Evidence Code Sections 1530 through 1532, containing all relevant information in the local child support agency's possession and the position statement required by subsection (a)(7), to the local child support agency in the county where the hearing is to be held with the request that the other county represent the responsible local child support agency at the hearing.

(A) The responsible local child support agency shall declare under penalty of perjury that the information submitted is from the case record of the complainant.

(B) If certified copies pursuant to Evidence Code, Sections 1530 through 1532, of the record are sent instead of the original, the responsible local child support agency shall attest that the copies are true copies of the original records.

(C) The request shall be made no later than five (5) business days prior to the hearing to allow the local child support agency in the county in which the state hearing is held to arrange for representation or to notify the responsible local child support agency of its inability to provide such representation.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate

of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 12–18–2001 order, including amendment of section, transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120205. Franchise Tax Board Responsibility.

The Franchise Tax Board shall send an agency representative to all state hearings, if requested by the local child support agency, to assist in resolving a complaint.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17801 and 17802, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120206. State Hearing — General Rules.

(a) Attendance at the hearing shall be limited to the complainant, the authorized representative, the local child support agency representative, Franchise Tax Board representative, a certified interpreter, and witnesses relevant to the issue.

(1) Other persons may attend the hearing only if their attendance is permitted by the complainant, and the Administrative Law Judge determines their presence will not be adverse to the hearing.

(2) The Administrative Law Judge shall be permitted to exclude a witness during the testimony of other witnesses, or exclude persons who are disruptive to the hearing.

(b) Personal or telephonic appearance by the complainant or authorized representative, if any, shall be required at the hearing, unless the hearing is a rehearing or further hearing, and the State Hearing Office determines the appearance of the complainant or authorized representative is not necessary.

(c) The hearing shall be conducted in an impartial manner.

(d) All testimony shall be submitted under oath, affirmation, or penalty of perjury.

(e) The proceedings at the hearing shall be reported by tape recorder or otherwise perpetuated by mechanical, electronic, or other means capable of reproduction or transcription.

(f) The issues at the hearing shall be limited to those issues previously identified in the "Request for State Hearing," SH001, by the complainant, or documented by the State Hearing Office from a verbal request for a state hearing by the complainant, and that are issues specified in Section 120201(a). Only a complaint that was raised in the local complaint resolution process can be raised in a state hearing.

(1) If a jurisdictional issue is raised at the hearing, either by the local child support agency representative, the complainant, the authorized representative, if any, or the Administrative Law Judge, the parties shall submit evidence on the substantive issues except as provided in subparagraph (3) below, or Sections 120211(a)(1), (2), or (5).

(2) No determination of the timeliness of the hearing request or other jurisdictional issue shall be made at the hearing. The request shall be dismissed by a written decision, if the Administrative Law Judge determines that jurisdiction does not exist, the request is untimely, or there is no subject matter jurisdiction.

(3) If prior to or at the state hearing, the parties agree to discuss only the jurisdictional issue, or the Administrative Law Judge on his/her own motion determines that only the jurisdictional issue will be discussed, the parties need not submit evidence on the substantive issues, and the Administrative Law Judge shall take evidence only on the jurisdictional issue. The Administrative Law Judge shall do one of the following:

(A) Inform the parties orally at the hearing or in writing within ten (10) days after the close of the record, that he/she will not proceed on the substantive issues and a decision will be prepared on the jurisdictional issue.

(B) Inform the parties orally at the hearing or in writing ten (10) days after the close of the record, that an additional hearing will be held on the substantive issues and provide the parties a minimum of ten (10) days in which to prepare on the substantive issues.

(g) An interpreter shall be provided by the State Hearing Office if one is requested by the complainant, or authorized representative, if any, prior to the hearing, or if at the hearing, the Administrative Law Judge determines that an interpreter is necessary. The Administrative Law Judge shall:

(1) Determine if the interpreter has been certified.

(2) If the interpreter is not certified, examine the qualifications and competency of the interpreter.

(3) Assure objective interpretation and disqualify interpreters who are:

(A) The complainant's relatives, friends, or authorized representative.

(B) Local child support agency staff responsible for the action or inaction that is the basis of the complaint.

(C) The local child support agency's state hearing representative.

(D) Determined by the Administrative Law Judge to be detrimental to the hearing process, or appear to have an interest in the outcome of the case.

(4) Administer a separate oath or affirmation to the interpreter to interpret accurately and maintain confidentiality.

(h) Both the complainant and the local child support agency shall have the right to:

(1) Bring witnesses.

(2) Examine parties and witnesses.

(3) Conduct cross–examination for a full disclosure of the facts.

(4) Introduce exhibits.

(5) Examine all documents that will be introduced as evidence prior to and during the hearing.

(6) Question opposing witnesses and parties on any matter relevant to the issues even though the matter was not covered in the direct examination.

(7) Make oral or written argument.

(8) Rebut the evidence.

(i) Written communications submitted by either the complainant or the local child support agency concerning the hearing shall be made available to both parties. Copies of all such documents shall be provided to the complainant free of charge.

(j) The merits of a pending state hearing shall not be discussed between the Administrative Law Judge and a local child support agency representative, Franchise Tax Board representative, a complainant, or authorized representative, outside the presence of the other party.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17801 and 17802, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 12–18–2001 order, including amendment of section, transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120207. Evidence.

(a) The Administrative Law Judge shall identify the issue(s) and shall state the order in which evidence shall be received. The taking of evidence in a hearing shall be conducted by the Administrative Law Judge in a manner best suited to ascertain the facts and to control the conduct of the hearing.

(b) Except as specified in (1) through (3) below, evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs.

(1) The rules of evidence as applicable in judicial proceedings shall not be applicable in state hearings.

(2) The Administrative Law Judge shall be permitted to exclude evidence that is irrelevant, cumulative or unduly repetitious.

(3) The Administrative Law Judge shall exclude evidence that is privileged under the Evidence Code if the privilege is claimed in accordance with law.

(c) The Administrative Law Judge shall consider the nature of the evidence admissible pursuant to subsection (b) in assessing its probative value.

(d) The Administrative Law Judge shall recognize the existence and truth of certain facts, such as a proposition of law or fact, that have a bearing on the issue in the case through official notice, without requiring the actual production of evidence to prove such facts.

(1) The Administrative Law Judge shall take official notice of those matters that must be judicially noticed by a court under Section 451 of the Evidence Code.

(2) The Administrative Law Judge may take official notice of those matters set forth in Section 452 of the Evidence Code.

(3) The Administrative Law Judge may take official notice of any generally accepted fact relating to the enforcement of child support.

(4) With respect to matters under subparagraph (3) above, and subdivision (f) of Section 451 and subdivision (g) of Section 452 of the Evidence Code that are of substantial consequence to the determination of the action, each party shall be given reasonable opportunity, subject to Section 120210(c) before the decision is submitted, to present information relevant to:

(A) The propriety of taking official notice; and

(B) The tenor of the matter to be noticed.

(e) The standard of proof to be used by the Administrative Law Judge in reaching his/her decision in the matter shall be by a preponderance of the evidence.

(f) In determining whether a local child support agency acted properly, where the action or inaction that is the subject of the complaint is discretionary, the standard of review shall be whether the local child support agency's exercise of discretion was arbitrary and capricious.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of section, transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120208. Examination of Records and Issuance of Subpoenas.

(a) The complainant shall have the right to examine non–confidential portions of the case record, portions for which disclosure is authorized under Section 111440, or non–confidential information the local child support agency used to make its decision, during regular business hours.

(b) The local child support agency shall reproduce without charge, or at a charge not to exceed the cost of reproduction pursuant to Government Code 6253, all specific policy materials, including regulations, necessary for a complainant to determine whether a state hearing should be requested, or to prepare for a state hearing.

(c) Before the hearing is commenced, the State Hearing Office shall be permitted to, upon the written or oral request of the complainant or the local child support agency, issue either or both of the following:

(1) A subpoena under the authority of Government Code Sections 11180 through 11191, requiring the presence of any witness whose expected testimony has been shown to be relevant, and not cumulative or unduly repetitious.

(2) A subpoena duces tecum under the authority of Government Code Sections 11180 through 11191, for the production by a witness of either original or certified copies pursuant to Evidence Code, Sections 1530 through 1532, of books, papers, correspondence, memoranda, or other records. The party requesting the subpoena duces tecum shall:

(A) Submit a statement under penalty of perjury describing the materials desired to be produced and their relevancy.

(B) Serve the subpoena duces tecum. Service of the subpoena duces tecum shall be made to allow the witness a reasonable time to produce the materials requested and to prepare and submit a statement to the State Hearing Office.

(d) The Administrative Law Judge assigned to the case shall be permitted to issue a subpoena or subpoena duces tecum after the hearing as necessary.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of section and NOTE, transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120209. Witness Fees and Mileage.

(a) A witness who is subpoenaed and appears at the hearing at the request of the complainant, shall be permitted to be reimbursed by the Department for witness fees and mileage pursuant to Government Code Section 68093.

(b) A witness who is subpoenaed and appears at the hearing at the request of the local child support agency, shall be permitted to be reimbursed by the local child support agency for witness fees and mileage pursuant to Government Code Section 68093.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120210. Postponements and Continuances.

(a) The State Hearing Office or the Administrative Law Judge shall have the authority to postpone the hearing for good cause. Good cause for a postponement is any of the following:

(1) Death in the family.

(2) Personal illness of or injury to the complainant or authorized representative.

(3) Sudden and unexpected emergencies including, but not limited to, traffic accidents on the day of the hearing and illness of or injury to a household or family member who requires immediate care.

(4) A conflicting court appearance that cannot be postponed.

(5) The local child support agency does not make a position statement required by Section 120204 available to the complainant at least two (2) business days prior to the date of the scheduled hearing, or the local child support agency has substantively revised the position statement required

by Section 120204 subsequent to providing the statement to the complainant and the complainant requests a postponement.

(6) The complainant did not receive notice of the time and place of the hearing. Failure by the complainant to notify the local child support agency or the State Hearing Office of a change of address while a request for state hearing is pending, shall not constitute a reason for postponement under this section.

(7) Any other reason the State Hearing Office or Administrative Law Judge deems appropriate.

(b) The Administrative Law Judge shall have the authority to grant a continuance of the hearing for a stated period not to exceed 30 days, for additional evidence or close the hearing and hold the record open for a stated period not to exceed 30 days, in order to permit the submission of additional documentary evidence.

(c) When a hearing is postponed, continued, or reopened, the State Hearing Office shall mail or give written notice to the parties that explains the hearing date may be put off for a period not to exceed 30 days.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of section, transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120211. Dismissals.

(a) The State Hearing Office shall dismiss a hearing request prior to the hearing when:

(1) The hearing request has been withdrawn pursuant to Section 120212.

(2) The issue is not within the jurisdiction of a state hearing as specified in Section 120201(a).

(3) The request for state hearing is filed beyond the time limit set forth in Section 120201(d)(2).

(4) The request for hearing raises a compliance issue, such as an allegation that the local child support agency and/or Franchise Tax Board failed to comply with a previously adopted state hearing decision.

(5) The issue is moot.

(b) Prior to dismissing a hearing for the reasons specified in subsection (a)(2) through (5), the State Hearing Office shall notify the complainant by mail of the reason(s) for the dismissal and that a dismissal shall occur 15 days after the notice is sent, unless the complainant sets forth further facts and/or arguments, orally or in writing, that would indicate the matter should not be dismissed. The procedure for dismissing a case prior to hearing based upon the complainant's withdrawal is set forth in Section 120212.

(1) If the complainant presents information that may indicate the hearing request should not be dismissed, a hearing shall be scheduled pursuant to Section 120203.

(2) If the complainant presents information that fails to establish the hearing request should not be dismissed, the State Hearing Office shall dismiss the hearing request and provide written notice to the complainant within ten (10) days of dismissing the hearing request. If the complainant fails to respond to notification sent by the State Hearing Office within 15 days, the State Hearing Office notice sent pursuant to subsection (b) shall serve as notice of dismissal.

(c) The Administrative Law Judge, in addition to the authority set forth in subsection (a), shall dismiss by proposed decision, a hearing request, or portion thereof, when:

(1) The Administrative Law Judge determines the complainant or authorized representative is unwilling to present the complainant's case at the state hearing. This paragraph shall not apply to abandonments. Dismissal of hearing requests based upon abandonment by the complainant is set forth in Section 120213.

(2) The Administrative Law Judge determines the issue(s) has/have been the subject of a previous state hearing involving the complainant.

(3) The Administrative Law Judge determines the person who requests the state hearing does not have standing to request the state hearing.

(4) The Administrative Law Judge fails to receive a written authorization following the hearing pursuant to Section 120222(b)(1).

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17801 and 17802, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of section, transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120212. Withdrawals.

(a) The complainant shall have the right to make an oral or written request to the State Hearing Office to withdraw the hearing request any time before the Director or Director's designee signs the decision. If the complainant has unconditionally verbally withdrawn the hearing request prior to the hearing, the State Hearing Office shall mail the complainant and the local child support agency a letter confirming the withdrawal of the hearing request, which shall serve as the written withdrawal. The hearing request shall be considered withdrawn unless, within 15 days after the mailing of such letter, the complainant notifies the State Hearing Office verbally or in writing the hearing request has not been withdrawn.

(b) An unconditional written withdrawal of the hearing request shall result in the immediate dismissal of the hearing request. The dismissal shall be without prejudice, and the complainant shall have the right to file a new hearing request raising the identical issue provided the request is filed within the time frames specified in this Article.

(c) A conditional withdrawal of the hearing request shall include a signed agreement between the complainant and the local child support agency. Any agreement under this subsection shall provide that the actions of both parties will be completed within 30 days from the date the conditional withdrawal is signed by both parties. The complainant shall be responsible to reinstate the hearing request within 90 days after receipt of the local child support agency's notice of action(s) taken, if the complainant is not satisfied that the action(s) or ultimate outcome are consistent with the agreement.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of subsection (c), transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120213. Abandonment.

(a) If a complainant or authorized representative fails to appear at the scheduled hearing without good cause as specified in Section 120210(a)(1) through (6), the hearing request shall be considered abandoned.

(b) Prior to dismissing a hearing request based on the complainant's abandonment, the State Hearing Office shall notify the complainant by

mail that the matter shall be dismissed on the failure of the complainant or authorized representative to appear, and that a dismissal shall occur 15 days after the notice is sent, unless the complainant requests the hearing request be reinstated and establishes good cause as specified in Section 120210(a)(1) through (6) for failing to appear at the hearing.

(1) The State Hearing Office shall have authority to request a written declaration or other verification from the complainant to support the reason(s) for the nonappearance.

(2) If the complainant presents information to explain the failure to appear, but the information fails to establish good cause for the nonappearance, the State Hearing Office shall dismiss the hearing request and provide written notice to the complainant within ten (10) days of the dismissal.

(3) If the complainant fails to respond to the notification sent by the State Hearing Office within the time allotted, the notice sent pursuant to subsection (b) shall serve as notice of dismissal.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of section, transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120214. Disqualification of an Administrative Law Judge.

(a) The Administrative Law Judge shall voluntarily withdraw from any proceeding in which the Administrative Law Judge cannot give a fair and impartial hearing or in which the Administrative Law Judge has an interest.

(b) A party may request at any time prior to the close of the record, that the Administrative Law Judge be disqualified upon the grounds that a fair and impartial hearing cannot be held, or a fair and impartial decision cannot be rendered. Such request shall be ruled upon by the Administrative Law Judge prior to the close of the record.

(c) If, at the beginning or during the hearing, the Administrative Law Judge upholds a party's motion for disqualification, the matter shall be postponed for no more than 30 days, and a different Administrative Law Judge shall be assigned. A postponement due to a disqualification of an Administrative Law Judge shall be considered a postponement with good cause. If, after the hearing, but before the close of the record, the Administrative Law Judge determines that disqualification is appropriate, a further hearing shall be granted pursuant to Section 120217(a)(3).

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of subsection (c), transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120215. Communications from a Party After the Hearing.

Oral and written communications from a party or witness to the Department or the Administrative Law Judge concerning the merits of the case subsequent to the record being closed shall be excluded from the record and shall be disregarded prior to the adoption and release of the decision of the Director or the Director's designee.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of section, transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120216. Submission of Proposed Decision.

(a) The Administrative Law Judge shall submit a proposed decision to the Director or Director's designee within 10 business days of the close of the record. The proposed decision shall be based exclusively on the evidence and other material admitted at the state hearing, or after the hearing, but while the record is open. The proposed decision shall specify the reasons for the decision and identify the supporting evidence and applicable statutes or regulations.

(b) If the Administrative Law Judge who heard the case is unavailable to prepare the proposed decision, the State Hearing Office shall assign another Administrative Law Judge to prepare the proposed decision on the record and notify the complainant of the right to request a new hearing, provided the complainant agrees to waive the time frame to render a decision required in Section 120217. The Administrative Law Judge shall be considered unavailable within the meaning of this section if the Administrative Law Judge:

(1) Is incapacitated.

(2) Has ceased employment as an Administrative Law Judge.

(3) Is disqualified under Section 120214.

(4) Is unable to write a proposed decision due to circumstances beyond his/her control.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of subsection (a), transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120217. Action by the Director or Director's Designee.

(a) The Director or Director's designee shall review the proposed decision submitted pursuant to Section 120216 and take one of the following actions:

(1) Adopt the proposed decision in its entirety.

(2) Issue an alternate decision based on the case record, including the transcript, with or without taking additional evidence. If the Director or Director's designee renders an alternate decision, the decision shall be in writing and include a statement of the facts, reference to the applicable statutes and regulations, and the reasoning to support the decision. The decision shall be based on only those circumstances and issues existing at the time of the local child support agency and/or Franchise Tax Board action or inaction in dispute that were the subject of the unresolved dispute and the request for state hearing.

(3) Order a further hearing to be conducted.

(b) A final decision shall be rendered by the Director or Director's designee for all state hearings within 20 business days from the date of the close of the record.

(c) If the Director or Director's designee fails to act in the manner specified in subsection (a) within 20 business days of the date of the close of the record, the proposed decision shall be deemed adopted by operation of law.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of subsection (a)(2), transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120218. Issuance of the Decision.

(a) The State Hearing Office shall mail the decision to the complainant and the local child support agency within 10 business days after the decision is adopted by the Director or the Director's designee, as specified in Section 120217. The decision shall include a statement concerning the complainant's right to request a rehearing or judicial review, and shall advise the complainant that if a judicial review results in a decision in the complainant's favor, the complainant shall be entitled to reasonable attorney's fees and the cost of the suit.

(b) If the Director or Director's designee renders an alternate decision, or orders a further hearing, a copy of the Administrative Law Judge's proposed decision shall be included and mailed with the final decision within the time frame specified in subsection (a).

(c) The Director or Director's designee shall retain authority to rectify clerical errors contained in the decision after the decision has been issued.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17801 and 17803, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of subsection (b), transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120219. Availability of State Hearing Records.

(a) The materials which constitute the exclusive record for the decision, specified in (b), below, shall be available to the complainant and the local child support agency during normal business hours at the Department for three years after the date of the adopted decision.

(b) The record for the decision shall contain all of the following:

(1) The tape recording of the testimony or an official report containing the substance of what transpired at the hearing.

(2) All papers used in the proceeding including the exhibits entered into the record.

(3) The request for hearing filed in the proceeding.

(4) The Administrative Law Judge's proposed decision.

(5) The alternate decision, if any.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120220. Rehearing.

(a) The complainant or the local child support agency shall have the right to file a written request for rehearing with the State Hearing Office no later than 30 days after receipt of the adopted decision. The rehearing request shall contain a statement regarding the date the adopted decision was received. In the absence of such statement, the date of receipt shall be either three (3) business days after the date of the postmark on the envelope containing the decision, or three (3) business days after the date the decision was released by the Department or the State Hearing Office, whichever is later.

(b) The filing date of the rehearing request shall be the postmark on the envelope containing the rehearing request. If the postmark on the envelope is unreadable, the filing date shall be the date the request for rehearing is signed. If the postmark is unreadable, and the request for rehearing is undated, the filing date shall be three (3) business days prior to the date the rehearing request is stamped "received" by the State Hearing Office.

(c) If the rehearing request is to permit presentation of additional evidence, the request shall:

(1) Describe the additional evidence.

(2) State why it was not previously introduced.

(3) Explain its materiality.

(4) Explain how the additional evidence will change the outcome of the hearing decision.

(d) Upon receipt of a rehearing request filed within the time frame specified in subsection (a), the State Hearing Office shall mail a copy of the request to the other party to the hearing. The other party shall be permitted to file a statement supporting or opposing the rehearing request. Such statement from the other party shall be in writing and shall be filed with the State Hearing Office no later than ten (10) business days after the mailing.

(e) The Director or Director's designee shall grant or deny the rehearing request no earlier than ten (10), nor later than 20, business days after it is received by the State Hearing Office. If the Director or Director's designee does not act within this time frame, the rehearing request shall be deemed denied.

(f) The criteria for granting a rehearing shall be one or more of the following:

(1) Newly discovered evidence is now available but was not available to the requesting party at the time of the hearing, and the new evidence, if it had been introduced, could have changed the result of the decision.

(2) The adopted decision is inconsistent with the law.

(3) The adopted decision is not supported by the evidence of record.

(g) If a rehearing request is granted, the Director or Director's designee shall do one of the following:

(1) Order reconsideration of one, several, or all issues decided in the adopted decision on the basis of the evidence in the record, and any additional evidence submitted by the complainant or the local child support agency. Such additional evidence shall be submitted to the opposing party for rebuttal.

(2) Order a new oral hearing on one or more of the issues presented at the original state hearing.

(h) If a rehearing request is denied, the Director or Director's designee shall mail a written notice of denial to the complainant no later than 20 business days after the rehearing request is received by the State Hearing Office. The notice of denial shall contain a statement concerning the complainant's right to judicial review and shall advise the complainant that, if the court decides the case in the complainant's favor, the complainant shall be entitled to reasonable attorney's fees and the cost of the suit.

(i) A rehearing request shall be permitted to be withdrawn by the requesting party any time.

(j) A rehearing decision shall not be subject to another rehearing. Any further appeal must be by petition to the Superior Court under Section 1094.5 of the Code of Civil Procedure.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17801 and 17803, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of section, transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120221. Compliance with Adopted State Hearing Decision.

(a) Immediately upon receipt of the adopted decision, the local child support agency shall:

(1) Initiate action to comply with such decision.

(2) Comply with the adopted decision even if a rehearing is requested and/or granted, unless a request to stay compliance pending rehearing has been requested concurrently with the request for rehearing, and has been granted by the Department.

(3) Comply with a rehearing decision subsequently rendered, to the extent the decision differs from the original adopted decision.

(b) If the adopted decision is wholly or partially in favor of the complainant, the local child support agency shall, within 30 days of receipt of the adopted decision, submit a compliance report to the Department. The local child support agency shall be presumed to have received the adopted decision 15 business days after the decision is adopted by the Director or the Director's designee. Such compliance report shall set forth the specific manner in which the local child support agency has complied and/or is complying with the order in the adopted decision. The Department shall review the compliance report and notify the complainant and the local child support agency that the plan for compliance has been approved, or the action that must be taken to ensure proper compliance with the adopted decision.

(c) The complainant shall have the right to contact the Department, orally or in writing, to express dissatisfaction with the local child support agency's compliance with the adopted decision. There shall be no right to another state hearing concerning noncompliance with the adopted decision. The Department shall determine the local child support agency's compliance with the adopted decision and provide notice to the complainant. If the Department determines the local child support agency is not complying with the adopted decision, the Department shall take any action necessary to ensure compliance, and provide notice to the complainant of the action taken by the Department.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17801 and 17802, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of subsection (b), transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

§ 120222. Authorized Representative.

(a) The complainant shall have the right to appoint an authorized representative during all aspects of the hearing process by signing and dating a written statement to that effect, or by stating on the record at the hearing that the person is so authorized.

(1) If the complainant is not present at the hearing, the written statement authorizing a representative to act on behalf of the complainant for hearing purposes shall be signed and dated by the complainant on or after the date of the action or inaction with which the complainant is dissatisfied.

(2) The authorization may be limited in scope or duration by the complainant, and may be revoked by the complainant at any time. The authorization shall be presumed to be a valid authorization. Such presumption is rebuttable.

(3) If the complainant is not present at the hearing and the written authorization does not meet the requirements set forth in subsection (a), the Administrative Law Judge may proceed with the hearing if the circumstances indicate that the complainant wishes to proceed with the hearing process. In such cases, an amended authorization shall be submitted within five (5) days from the hearing.

(b) If the complainant has not authorized the representative in writing and is not present at the hearing, the person may be recognized as the authorized representative if the person is the complainant's attorney, guardian or conservator, or has a power of attorney, or if at the hearing, the person swears or affirms under penalty of perjury on the record that the complainant has so authorized him/her to act as the complainant's authorized representative, and the Administrative Law Judge further determines the person is so authorized.

(c) The Administrative Law Judge may make the determination of a representative being authorized by the complainant by contacting the complainant or collateral source. When the purported authorized representative is not an attorney, a guardian or conservator, or does not have a power of attorney, a written authorization shall be submitted within five (5) days from the hearing unless this time period is extended by the Administrative Law Judge. If no written authorization is submitted, the case shall be considered abandoned, and shall be dismissed by written decision after the hearing pursuant to Section 120211.

(d) Whenever the complainant is represented by an authorized representative, the authorized representative shall be furnished a copy of all notices and decisions concerning the state hearing that are provided to the complainant. The authorized representative shall have the same right as the complainant to review the complainant's case record pursuant to Chapter 1, Program Administration, Article 5, Records Management.

(e) All references in this Article to rights and responsibilities of a complainant in the state hearing process apply to a duly authorized representative, unless the authorization is limited pursuant to subsection (a)(2).

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Section 17801, Family Code.

HISTORY

1. New section filed 6–26–2001 as an emergency; operative 7–1–2001 (Register 2001, No. 26). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 12–28–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–18–2001 as an emergency; operative 12–30–2001 (Register 2001, No. 51). Pursuant to Family Code section 17306(e)(2), a Certificate of Compliance must be transmitted to OAL by 6–28–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–18–2001 order, including amendment of subsections (b), (d) and (e), transmitted to OAL 6–11–2002 and filed 7–24–2002 (Register 2002, No. 30).

Chapter 11. Quality Control

Article 1. Performance Measures

§ 121100. General Provisions.

(a) Each local child support agency shall submit to the Department the data specified in this Article so that the Department may measure the performance of each local child support agency in securing child support, spousal support, medical support, and determinations of paternity.

(1) The data required pursuant to Section 121120(b), for state performance measures, shall be submitted on a quarterly basis.

(2) The data required pursuant to Section 121140(b), for federal performance measures, shall be submitted on an annual basis.

(b) The Department shall collect and analyze the data submitted by each local child support agency in establishing baseline performance standards that shall be met by each local child support agency.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17600 and 17602, Family Code; and 42 U.S.C. Sections 652 and 658a.

HISTORY

1. New chapter 11, article 1 (sections 121100–121140) and section filed 9–6–2001 as an emergency pursuant to Family Code section 17306; operative 9–6–2001 (Register 2001, No. 36). A Certificate of Compliance must be transmitted to OAL by 3–5–2001 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2002, No. 10).
3. New chapter 11, article 1 (sections 121100–121140) and section refiled 3–5–2002 as an emergency pursuant to Family Code section 17306; operative 3–5–2002 (Register 2002, No. 10). A Certificate of Compliance must be transmitted to OAL by 9–3–2002 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3–5–2002 order, including amendment of subsection (a)(2), transmitted to OAL 8–29–2002 and filed 10–9–2002 (Register 2002, No. 41).

§ 121120. State Performance Measures.

(a) Each local child support agency shall report the following data to the Department and the Department will use the data to calculate performance measures for the following categories:

(1) Percent of cases with a court order for current child support. The performance measure will be calculated as follows:

The total number of cases in the caseload with a court order for current child support compared to the total number of cases in the caseload, except medically needy only cases.

(2) Percent of cases with collections for current child support. The performance measure will be calculated as follows:

The total number of cases in the caseload for which at least one payment for current support has been collected during the reporting period compared to the total number of cases in the caseload for which current child support is due.

(3) Average amount collected per case for all cases with collections. The performance measure will be calculated as follows:

The total amount of child support collected as compared to the total number of cases for which some collections were received during the reporting period.

(4) Percent of cases with an order for arrearages. The performance measure will be calculated as follows:

The total number of cases in the caseload with arrears due compared to the total number of cases in the caseload, except medically needy only cases.

(5) Percent of cases on which arrearages were collected. The performance measure will be calculated as follows:

The total number of cases in the caseload for which arrears were collected compared to the total number of cases in the caseload for which arrears are owed.

(6) Percent of alleged obligors who were served with a Summons and Complaint to establish paternity or a support order. The performance measure will be calculated as follows:

The total number of alleged fathers or obligors who were served with a Summons and Complaint to establish paternity or a support order compared to the total number of cases in the caseload that required service of a summons and complaint to establish paternity or a child support order during the reporting period.

(7) Percent of children for whom paternity has been established. The performance measure will be calculated as follows:

The total number of children for whom paternity has been established or acknowledged during the reporting period compared to the total number of children in the caseload who require the establishment of paternity.

(8) Percent of cases that had a child support order established. The performance measure will be calculated as follows:

The total number of cases in the caseload for which a child support order was established compared to the total number of cases in the caseload that required the establishment of a child support order during the reporting period.

(9) Cost–effectiveness. The performance measure will be calculated as follows:

The total amount of child support collected and distributed for each dollar expended by the local child support agency. For purposes of this measurement, the electronic data processing costs for consortia counties will be allocated to each county, based on actual costs.

(10) Percent of cases with orders for which medical support has been ordered. The performance measure will be calculated as follows:

The total number of cases in the caseload for which medical support has been ordered compared to the total number of cases in the caseload for which either current child support and/or medical support only has been ordered.

(11) Percent of cases with health insurance provided as ordered. The performance measure will be calculated as follows:

The total number of cases in the caseload for which health insurance was provided as ordered compared to the total number of cases in the caseload for which health insurance was ordered.

(b) These performance measures shall be reported to the Department in accordance with the requirements of Section 111920. Failure to report, or the reporting of inaccurate data shall be subject to provisions of subsection (c) of Section 111920.

(c) In publishing the results of any state performance measurement which is identical to a federal performance measurement, except for the period reported, the Department will annotate those reported measures with an explanation of any discrepancies between the numbers reported for those measures.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17600 and 17602, Family Code; and 42 U.S.C., Sections 652 and 658a.

HISTORY

1. New section filed 9–6–2001 as an emergency pursuant to Family Code section 17306; operative 9–6–2001 (Register 2001, No. 36). A Certificate of Compliance must be transmitted to OAL by 3–5–2001 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2002, No. 10).
3. New section refiled 3–5–2002 as an emergency pursuant to Family Code section 17306; operative 3–5–2002 (Register 2002, No. 10). A Certificate of Compliance must be transmitted to OAL by 9–3–2002 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3–5–2002 order, including amendment of subsections (a)(9) and (a)(11), transmitted to OAL 8–29–2002 and filed 10–9–2002 (Register 2002, No. 41).

§ 121140. Federal Performance Measures.

(a) Each local child support agency shall report the following data to the Department for calculation of federal performance measures.

(1) Paternity establishment percentage. The performance measure will be calculated as follows:

The total number of children for whom paternity has been established during the reporting period compared to the total number of children in the caseload who require the establishment of paternity.

(2) Percent of cases with a child support order. The performance measure will be calculated as follows:

The total number of cases with support orders as compared with the total caseload. Support orders are broadly defined as all legally enforceable orders, including orders for health insurance and zero support orders.

(3) Percent of current support collected. The performance measure will be calculated as follows:

The total amount of current support collected as compared to the total amount of current support owed.

(4) Percent of arrears collected. The performance measure will be calculated as follows:

The total number of cases in the caseload for which arrears were collected compared to the total number of cases in the caseload for which arrears are owed.

(5) Cost-effectiveness. The performance measure will be calculated as follows:

The total amount of child support collected and distributed as compared to each dollar expended by the local child support agency. For the purposes of this measurement, the electronic data processing costs for consortia counties will be allocated to each county, based on actual costs.

(b) These performance measures shall be reported to the Department in accordance with the requirements of Section 111920. Failure to report, or the reporting of inaccurate data shall be subject to provisions of subsection (c) of Section 111920.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code. Reference: Sections 17600 and 17602, Family Code; and 42 U.S.C., Sections 652 and 658a.

HISTORY

1. New section filed 9-6-2001 as an emergency pursuant to Family Code section 17306; operative 9-6-2001 (Register 2001, No. 36). A Certificate of Compliance must be transmitted to OAL by 3-5-2001 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2002, No. 10).
3. New section refiled 3-5-2002 as an emergency pursuant to Family Code section 17306; operative 3-5-2002 (Register 2002, No. 10). A Certificate of Compliance must be transmitted to OAL by 9-3-2002 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-5-2002 order, including amendment of subsections (a) and (a)(5), transmitted to OAL 8-29-2002 and filed 10-9-2002 (Register 2002, No. 41).

Chapter 12. Automation Requirements (Reserved)

Chapter 13. Conflict of Interest Code

§ 123000. California Department of Child Support Services Conflict of Interest Code.

The Political Reform Act, Government Code Section 81000, et seq., requires each state and local government agency to adopt and promulgate a conflict of interest code. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Code of Regs., Section 18730, which contains the terms of a standard conflict of interest code. It can be incorporated by reference and may be amended by the Fair Political Practices Commission after public notice and hearings to conform to amendments in the Political Reform Act. Therefore, the terms of 2 Cal. Code of Regs., Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference and, along with the attached Appendices in which officials and employees are designated and disclosure categories are set forth, and the place of filing is specified, shall constitute the conflict of interest code of the California Department of Child Support Services.

Designated employees shall file statements of economic interests with the California Department of Child Support Services which shall make the statements available for public inspection and reproduction. Upon receipt of the statement of the Director, the California Department of Child Support Services shall make and retain a copy of the statement and send the original to the Fair Political Practices Commission. Statements for all other designated employees will be retained by the Department.

Designated Positions Appendix

Designated Positions of the Department of Child Support Services:	*Assigned Disclosure Categories:*
Director	1
Chief Deputy Director	1
All Deputy Directors	1
All Assistant Deputy Directors	1
All Assistant Directors	1
CCSAS Project Leader	1
All Consultants*	1
Public Information Officer	1
Information Security Officers	1
Chief Counsel, Office of Legal Services	1
All Staff Counsels, all levels	1
All Branch Chiefs	1
All Regional Administrators	1
CCSAS Project Management Officer	1
All Technology Services Division Section Managers	2
All Technology Services Division staff participating in vendor selection/evaluation or CCSAS design, development, implementation and maintenance	2
All Administrative Services Division Section Managers	1
All Administrative Services Division Unit Managers	2
FPPC Filing Officer	1
All Purchasing Agents (This category includes all Cal Card holders.)	2
All Negotiators of Space Planning and/or Acquisition	1
All Negotiators of Communications	2
All Contract Analysts	2
All Negotiators of Contracts for goods and services.	2
All Policy Branch Section Managers	3
Statewide Automation Consulting Section Staff	3
All Policy Branch Unit Managers	3
All Collection Enhancement Branch Section Managers	3
All CCSAS Program Support Branch Section Managers	3

* With respect to consultants, the Director may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Director's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

Disclosure Categories Appendix

CATEGORY 1

Designated employees assigned to this category must report:

All interests in real property in the State of California, as well as investments, business positions and sources of income, including gifts, loans and travel payments.

CATEGORY 2

Designated employees assigned to this category must report:

All investments and business positions in and income, including gifts, loans and travel payments, from sources that are subject to departmental regulatory authority, and from sources which provide leased facilities, goods, equipment, vehicles, machinery or services, including training or consulting services, of the type utilized by the Department of Child Support Services.

CATEGORY 3

Designated employees assigned to this category must report:

All investments and business positions in and income, including gifts, loans and travel payments, from sources that are subject to the regulatory authority of the Department of Child Support Services.

NOTE: Authority cited: Section 87300, Government Code. Reference: Sections 87300-87302, and 87306, Government Code.

HISTORY

1. New chapter 13 (section 12300), section and appendices filed 9-19-2001; operative 10-19-2001. Approved by Fair Political Practices Commission 7-19-2001 (Register 2001, No. 38).
2. Amendment of section and Appendix filed 5-3-2004; operative 6-2-2004. Approved by Fair Political Practices Commission 3-10-2004 (Register 2004, No. 19).

* * *

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CALIFORNIA CODE OF REGULATIONS

SUBJECT INDEX

Title 22

Social Security

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